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# NATAL

## THE STATE AND THE CITIZEN



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# NATAL

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# NATAL

## THE STATE AND THE CITIZEN

BY

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SUPERINTENDENT OF EDUCATION

AND

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CLERK TO THE LEGISLATIVE ASSEMBLY



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TO HIS HONOUR  
SIR HENRY BALE, K.C.M.G.  
CHIEF JUSTICE OF NATAL  
THIS LITTLE GUIDE  
TO THE DUTIES AND RIGHTS OF NATAL CITIZENSHIP  
IS DEDICATED  
WITH SINCERE RESPECT

1177290



## ADVERTISEMENT

No one denies that, after the discharge of his private obligations, it is the duty of a good citizen to take his share in public work; yet comparatively few people carry this excellent platitude into effect.

Some of the blame must be laid upon the carelessness and selfishness bred of a long period of development undisturbed by considerable civic crises. People who are comfortably off are often deaf to the claims of the less fortunate mass below the line of prosperity who might be raised to it by a more vigorous and disinterested administration. Thus it often comes about that public work is unfairly left to an active few, and sometimes falls into the hands of unscrupulous persons to whom the grinding of their own private axes is of more importance than the perfecting of the whole machinery of their state or city. We sometimes tolerate things in public life out of a discreditable indifference which in private life we should resent with all our might.

But something is due to sheer ignorance also. How little the average man knows about the principles or even the processes of government and administration is hardly to be believed; and yet on his twenty-first birthday heaven is assumed to rain upon him all the information

and wisdom necessary to the exercise of each of the delicate and complicated duties of citizenship.

The Heads of Education Departments of British South Africa have included in the syllabus of studies which they thought essential to the training of youth the duties and rights of citizenship, as the proper sequel to the History course incumbent on all children in our schools. In this they were following the example of the English Education Department which, under the vigorous and sagacious administration of Mr. Arthur Acland, included this subject in the ordinary elementary school work.

This little book is therefore designed for a double purpose: to meet the need of the average person, and to provide a simple manual for young people. It has been written as simply as possible. The greatest difficulty with which the authors have had to deal is the difficulty of compression; and if the critical reader misses some detail or elaboration which he feels would have added to the usefulness of the book, he is asked to give the authors the benefit of the doubt and to assume that it has been omitted for good reason.

P. A. B.  
G. W. S.

PIETERMARITZBURG, NATAL.  
*January, 1904.*

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# NATAL

## THE STATE AND THE CITIZEN

### CHAPTER I

#### WHY WE SHOULD KNOW THE MEANING OF LAWS

WE are so accustomed to the regular ways of the life which we live and are so ready to take them for granted, that we do not often ask ourselves what are the means that enable us to live in safety and with so many comforts about us. We know that there is a Government; that there are laws; that the laws are made by Parliament; and that there are people, like police and judges, whose business it is to see that the laws are carried out. But we ought also to find out how all these people and institutions get their power; how they have come to be what they are; and whose business it is to see that they in their turn do their duty.

The first thing that a good man thinks about is his Duty. "What *ought* I to do?" he says. When this is settled, he is justified in asking to have his Rights. "What am I entitled to *get from other people?*" he says. A man who is not prepared to do what he himself ought to do, cannot fairly ask other people to do for him what

he neglects to do for them. So we may as well begin by understanding clearly that there are no Rights without Duties, and that we can deserve the protection and kindness of other people only by showing ourselves ready to take our share in the common work.

As soon as we are old enough we are expected to take an interest in matters of public importance. No one can shut himself up selfishly and leave public business to chance. If he does this, he neglects his duty as a citizen; and if many people do this, it is certain that public affairs fall into bad hands, and public money, public health, and all public interests suffer grievously.

After securing the happiness of his own family, a man must take an active part in promoting the interests of the whole community in which he lives, if even only to further the interests of his own family and himself.

But we cannot take an intelligent interest in public affairs unless we know how and why they are carried on as we see them. To give such knowledge to those who have not yet got it is the object of this little book.

When we look round and see how many things there are which we can quietly enjoy, we are apt to forget two very important facts. We forget, first, how much it has cost to place us where we are, and to give us the liberties and comforts to which we are accustomed; and we forget, secondly, that we can continue to enjoy all these liberties and comforts only by a silent agreement to give way to one another, and not to claim all that we might claim at any one time.

We can best get to know with how much trouble our fathers attained freedom and civilisation by the careful

reading of history; and, indeed, the reading of history is necessary not only in order that we may be informed how these things came about, but also how they are to be maintained. This book must therefore be regarded as completing, or as filling gaps left by, what we have read of the history of our ancestors.

We shall therefore often have to speak in the course of the following chapters about the various stages by which the people of England first, and the people of Natal afterwards, built up the institutions of the Natal which we know and love.

Though there are amongst us many people of Dutch and other non-English descent, whose services to freedom and whose love of freedom have not been less than our own, the main foundations of our public life were laid by Englishmen; and though our fellow-Natalians of Dutch or other descent are in complete agreement with us in maintaining our free institutions, it is, for the greater part, English institutions that secure to us all the blessings that we enjoy, wherever our fathers came from.

Let us not forget then, that the inheritance which our ancestors have handed to us was won only by many generations of work and striving, and that it can only be maintained by further work and striving on our part.

But although most of our liberties may be said to be secured to us by laws, no people can live together peaceably, or, as we might say, no society can exist and prosper, if every one insisted at any and all times on having what he thinks are his "rights." Thus, we all have the right of walking along any part of the roads; but it is quite clear that one man must give way for another; if people

jostle each other for the same place or path, existence would be impossible.

The fact is that the more truly men are civilised, the more personal freedom they enjoy ; and the possession of personal freedom means that a man is allowed to settle things by agreement with other men, unforced, by one giving way to another.

That kind of silent or " tacit " agreement which leads us to give way to one another so that every one may enjoy his share of the pleasant and useful things of the world, is the very essence of freedom and good government. We cannot " do what we like," but we all enjoy a " turn " or opportunity. The necessary condition of this freedom is *self*-restraint. The more each man gives way, the more room, the more real freedom, there is for all.

Thus government is best not when it makes most rules to force or constrain people to do this or that. It is best when it protects people from interference and gives to the largest number of people the largest number of opportunities for work and enjoyment.

Wicked or ill-disposed or even selfish or foolish people may easily make a town or a country uncomfortable and unsafe by refusing to give way in matters that are necessary for the good of every one. When they do this in an open fashion and so that the business of other people cannot safely be carried on, then the police step in. Thus a river may be used for any reasonable purpose by all who can get to it, but no one may contaminate it to suit his private convenience.

Thus, too, a tradesman may put what he likes in the window of his store in order to make his wares attractive ;

but if his exhibition is so striking and exciting that a crowd collects, he may be required to remove the cause of the obstruction.

Let us glance now at the many public institutions which were here, ready for us, so to speak, when we were born, and note how they provide for our comfort, convenience, and prosperity.

The police protect us from evil-doers in our midst, the navy and army from dangers that may come from abroad. Judges and magistrates punish criminals and settle disputes according to the laws. The Post Office helps to carry letters not only from one end of Natal to the other, but to and from any part of the civilised world. The Savings Bank makes it possible for every one to practise the thrift and forethought which is at the bottom of all prosperity. The Railway traverses this and neighbouring states with a safety and rapidity which two generations ago would have seemed beyond belief. The Telegraph connects us with the farthest points of civilisation in a few hours. Roads are made, schools are built, bridges are thrown across streams, innumerable buildings are raised for the transaction of all kinds of public business, all because people have agreed to work together to secure such things, to "co-operate," as we say, for the common good.

There are of course organisations of all sorts and sizes. Each family is an organisation; but people may combine for any purpose—to start a library, or a school, or work a farm together. But the particular organisations with which we are now most concerned are the Towns and State of Natal. We are to learn under what rules or laws the towns of Natal and Natal as a free country conduct their

business. By knowing something about this we shall be able to understand the meaning of public questions, and to take our own part in them when it becomes our duty to do so.

## CHAPTER II

### COLONIES AND THE MOTHERLAND

A man born in Natal, or in one of the other states of British South Africa, might speak of himself as "colonial" or a "colonist," a British "colonist." Now a British colonist bears a more honourable title than he is sometimes aware of, and it is worth while to examine it rather closely.

When a man speaks of himself as a Natal colonist, he may perhaps be thinking merely that he lives in this sunny land of ours. Possibly, however, the thought of his own "colony" suggests also the thought of England, the motherland of his "colony," through connexion with which his own country is a "colony" and "British."

We ought not to let the term "colonist" suggest to our minds that Natal is not our real and permanent *home*. In some countries the "colonists" think only of getting back as soon as they can to the place of their origin. The proper aim of an English colonist is to make the land in which he lives as good as he can; and to establish in it love of the motherland, and the same manly and just institutions which have made the motherland great and worthy of affection.

So this is the main idea we should keep in our minds: the thought of England the mother country, the thought

of Natal the daughter. And unless we do always keep these two ideas bracketed, as it were, in our minds, we are missing more than half of what it means to be a British colonist.

If we dwell for a little on the way in which England's colonies were founded, it will help us to understand what a colony really is, and what relation it has to the motherland. We shall learn also most clearly why we ought to be proud of being colonists and what are our duties as such.

The word "colony" is derived from the Latin *colonia*, which signifies a "place in which inhabitants were planted," and this is why the colonies were so often spoken of as "the plantations" in earlier times. A colony then is a settlement "planted" with inhabitants by a parent state; and so from the very beginning it stands in the relation of a child to its father or mother. We see from this how strictly correct we are when we speak of England as the "motherland."

The practice of founding colonies is of very ancient date, so far back indeed that we read of colonies established by the Phœnicians along the Mediterranean long before the days of Rome. As we come to later days we find that almost all the nations of Europe have at one time or another tried their hands at establishing colonies, but we also find that no nation has been so successful in retaining or so skilful in governing its colonies as the English nation.

Now people do not leave their own country and face hardships and dangers in distant lands without good reason. To be sure there are in every country certain

adventurous persons whose love of travel and excitement leads them abroad, but in ordinary times most men feel happy enough in their own country to prefer staying there. There must have been some strong reasons then why so many Englishmen sought new homes across the seas, besides the fact that England as a seafaring nation has always given birth to a great many persons fond of adventure.

If we look into our history, we find that other reasons for building up new colonies were the desire to increase the wealth and commerce of the old country, the wish to obtain more elbow-room as the land became more populous, the longing to spread civilisation and Christianity in heathen lands, and a craving for more freedom in religion and liberty in government than was at certain times afforded in the parent land.

England's earliest colonies were in North America, and they were for the most part peopled by settlers who were weary of the civil and religious troubles that filled England in the days of the Stuart kings. The same troubles that had driven them from England still continued after they had left; and thus the Home Government had its hands so full that it was able to interfere very little with them, often thinking itself, when they left, as well rid of a nuisance.

They were because of this allowed to manage matters very much for themselves; and this freedom of theirs has proved of great importance to us, for it is to a great extent the origin of the freedom which England has permitted all its colonies. Other European nations have been too fond of meddling with their colonies and so have prevented



them from developing on natural lines; England has, as a rule, abstained from worrying its colonies in small matters.

When the early English colonists landed in America they found only savages there. They had then to establish some system of law in order to regulate their dealings with one another, and naturally enough they introduced the law of England, as it was that with which they were most familiar. Also they had the natural desire of Englishmen to be allowed to make laws for themselves as they were required from time to time; and so they did not rest until they obtained from the Crown the right to elect Parliaments of their own.

English colonies have mostly grown up on the lines just described, but there are differences between one and another because they have not all been founded in the same way.

We have indeed to remember that the colonies have been established in three different ways: that is, either by *settlement*, or by *conquest*, or by *treaty*. They are said to be founded by settlement when the first colonists find only savages dwelling in the land and simply take possession. They are founded by conquest when taken by armed force. They are founded by treaty when they are handed over as the result of agreements set forth in formal documents.

We have already seen that the colonies in America founded by settlement took with them the law of England; and it has generally happened that the law which prevailed in England at the date of a settlement became the law of the colony also. A further rule regarding colonies

formed by settlement is that laws passed in England after the date on which they were settled do not apply to them unless the Imperial Parliament states that such laws are expressly intended to apply.

The state of things is very different in the other two classes of colonies. Here the bulk of the original inhabitants were foreigners, and the English settlers were principally officials occupied in the work of governing the newly obtained colony. The people they had to govern were not savages, but men just as civilised as themselves, with proper laws of their own and with recognised institutions of Government.

To have abolished in such a case the ancient laws of the country and to have substituted the law of England might have been harsh and unwise. Such a course would have made all the inhabitants dissatisfied at the very beginning, and they would have felt disinclined to obey the new Government.

A policy such as this has never been approved by the English people. They have always tried to take their new subjects into their confidence at the earliest moment and striven to win their esteem by generosity and a spirit of trust. Such colonies then were permitted to retain the old laws of the land, the only difference being that they were administered by English officials, who were at great pains to learn them. Even in this respect also we find the new colonies so generously treated that they were often allowed to retain a proportion of the old officials who had been in office before the country became a British colony.

We shall see how this applies to ourselves when we come to deal later on with our own colony.

But the laws that we have been speaking of will not always be sufficient for the needs of a colony. New laws are required ; and as we have to abolish the old machinery for making laws when we come into possession, these additional laws are at first made by the Crown or under its authority. When the fitting time comes, the Crown grants to the new colony a parliament of its own to make laws. Such a parliament at first may be different in many respects from the great Parliament of England, but as time goes on it tends to resemble it more and more.

To sum up all that has been said, we find that the colonies are closely connected with the motherland from their very beginnings. We see that they are settled by men of English birth, or are acquired by English valour and diplomacy. We see that when it is possible the law of England becomes their law. We find that when the colony is granted the right of making its own laws this is done by means of a parliament as nearly resembling that of England as the circumstances will permit. And above all we see that the colony is knitted to the Crown by very close bonds of dependence.

This connexion between the colony and the mother country grows stronger and stronger as the years pass by. There was a period in our history when very mistaken views were held about this, not by foreigners only, but also by Englishmen. It was said that all the colonies would soon become quite independent ; that they would in the long run break away from England as the North American colonies broke away to become the "United States." English people who had little knowledge and understanding of what was happening outside England

were apt to think of the colonists as aliens, and regarded the expense they caused the Home Government as so much money wasted.

In fact they could see no advantage in keeping the colonies, not caring whether they were kept or lost. And foreigners who did not wish well to England sometimes openly declared that they were waiting for this opportunity to injure her.

We look at the matter now through other spectacles. Both colonists and the old country alike know now that we make up one Empire, and that the bonds which hold us together are all the stronger for being so elastic. An insult to one portion of the Empire rouses indignation in every Briton, home-born or colonial, and when any English territory is in danger the resources of every colony as well as the might of the mother country are ready for its defence. Here in South Africa we have had ample proof of this spirit and none know better than we how strong it is.

A great statesman once asked: "Am I wrong in thinking that the Colonies share our feelings, and share them to the full,—that they have no idea of cutting themselves adrift from the great history of the motherland, from the glorious traditions in which we find the germs and origins of the ordered liberty which they enjoy, from the history of the struggles in which their ancestors took no mean part, and from all the common pride in the glories of art and literature which, perhaps even more than our victories in arms, have made the name of Britain illustrious?" And he answered his own question as we also should answer it: "I am convinced that none of our colonies will be backward in the effort to secure and to

maintain this connexion, nor ready to abandon its part in the noble heritage which belongs to all of them."

We may find a difficulty in grasping all that these words mean. We ought the more to ponder over them. And we must remember that if we are to be loyal to this great Empire, we must begin by being loyal to our own colony of Natal. We must not forget that a slothful or indifferent citizen of Natal makes also a slothful and indifferent citizen of the Empire.

We should begin by being useful and well-disciplined in our own circle, and we shall find it easy to be useful to our own city or district. We should be prepared to work unselfishly for the good of our neighbours, and while working for them there will spring up in us the desire to work for the good of the whole State, and not only for that but also for the benefit of the whole of South Africa. We shall find plenty of work ready to hand, and we shall find in doing work that seems only local and not of very great importance that we are actually helping in the work of building up the Empire.

### CHAPTER III

#### THE BUILDING OF THE ENGLISH CONSTITUTION

It has already been made clear that we English people, whether we live in England or in a colony, are indeed a free people. We have seen that our Government presses upon us very lightly, and that it permits us to do very

much as we wish on condition that we, in our turn, allow equal liberty to other people.

Later on we shall find that there are excellent reasons why we should take not only a distant and general but also a close and personal interest in our Government.

We shall find that although Parliament is the body which actually makes the laws as they are known to us, the individuals of the State, with certain exceptions and restrictions, have a voice in the selection of the members of Parliament.

To this extent we can feel that we have a real part in the management of the country's business. We feel that we have an interest as partners, and we are not disheartened by a sense that our Government is something quite outside and above us. So little in fact is this the case, that any of us may be asked to represent our fellow citizens in Parliament if only we succeed in winning their confidence and esteem.

It was shown in our first chapter that this happy state of things was only arrived at through the co-operation and unselfish efforts of our ancestors. Let us then try to see as shortly as we can how it was all brought about.

We English are a mixture of various kindred peoples. Kelts and Saxons, Danes and Normans, all have had their share in making us, but the Saxons, or, as they are sometimes called, the Anglo-Saxons, were the real founders of the English nation. There is more of the Anglo-Saxon in our institutions than there is of any other influence, though so much fire and vigour comes to us with the Kelts.

Now the Anglo-Saxons, when they became united, were governed by a king, who was king as much by the

choice of the people as by right of descent. He was chosen by the Witan-gemot or "Assembly of the Wise Men;" and after his election it was the duty of the Witan-gemot to help him with their advice and to furnish him with the money that he needed in order to govern the land.

As these "Wise Men" had often to come considerable distances to attend the king's councils, they had to be both men of leisure and of means ample enough to allow them to leave their own business. We can readily see that owing to this only a small number of the whole people could be in a position to attend on the king, and that it was thus their duty to "represent" the interests of their fellow-countrymen before the sovereign.

It is very easy to perceive that this Assembly, with its rough-and-ready methods of doing business, and above all with its duty of finding money for the king's Government, was capable of developing into the great English Parliament as we know it, which because of its history and famous traditions is often called, in the words of the famous John Bright, "the mother of parliaments."

With the Norman Conquest the changes in the system of government were not so important as one might imagine. It is true that the Assembly of the Witan, the Wise Men, gave place to the *Magnum Concilium* or Great Council of the Realm; but the change was merely one of name. This *Magnum Concilium* had to perform the same duties as the Witan-gemot. It had to advise the king, and find him supplies; and the change from the Witan-gemot lay principally in the persons of its members.

The Normans however introduced into England the

organisation and customs now known as the "feudal system;" and very soon after the Conquest made a most important change in that system. When they first came, the great nobles alone swore fealty to the king and held their lands directly from him, while the lesser nobility and squires held their lands in turn from the great nobles and did homage for them to those nobles. William the Conqueror changed this by making *every* landowner in the kingdom hold his lands directly from the king and do the king personal homage for them. The power this gave to the king and the consequent growth of the royal authority was one of the earliest of the great changes which, unforeseen, ultimately welded England into one solid country.

The Barons soon felt the effects of the change in the feudal system, and they chafed more and more under the new conditions. Their ill feeling grew steadily, while they were constantly irritated by the attempts of the reigning monarch to raise money without the consent of the Magnum Concilium. In the resulting discontent we find the beginnings of a great fight for the control of taxation by Parliament which lasted hundreds of years; and we notice also that the Barons were really fighting the people's battles though they were but dimly aware of it.

This service rendered by the classes now called "aristocratic," that is, by the nobility, in the preservation and development of freedom is particularly memorable; for though the attacks on real freedom are no longer, in English countries, made in the same form as in the days of our forefathers, it may still happen that, under the forms of the most popular parliaments or assemblies, this



real freedom may suffer. A stable system of government has to provide checks on every class of the community, both on kings, and nobles, and on a majority inclined to become overbearing and oppressive to the minority.

The contest went on until the first decided victory for the interests of the people came about when the Barons wrung from John his assent to Magna Carta. This famous document contained a clause providing that no money could be raised by the king from his subjects without the consent of the Council. The provision was often neglected by subsequent kings, but the principle it laid down was never given up.

Another most important clause in Magna Carta was one by which the king promised to summon to the Great Council the chief barons and clergy *by name*, and the smaller tenants-in-chief by a *general writ* addressed to the sheriffs of counties. Here then we see the king recognising the principle of allowing the lesser nobles to appoint delegates to *represent* them at the Council.

The representation of the smaller nobles by chosen spokesmen is far from being that representation of every class of the people which we now find in Parliament; but it was an easy step from the one to the other.

It has to be remembered that, while king and barons were fighting for the upper hand, another influence was silently and surely making its way in the country. That influence was the steadily growing importance of the towns; and the chance of the townsmen came when Simon de Montfort, after leading the Barons to a successful assault upon the king's prerogatives, had to acknowledge that the Barons, when they got the upper hand,

were almost as difficult to manage as the king himself. To help him to maintain, as we say, the balance of power, de Montfort turned to the towns, and summoned a Parliament in the year 1265, consisting not only of nobles and clergy and knights of the shire, but also of two burgesses chosen from each borough. This body was the first to represent the country as a whole, and so it is commonly known as the first English Parliament.

For some time after this the members of Parliament all sat in one chamber, but it was subsequently found convenient to separate those members who sat by right of birth or office from those who sat by virtue of election. The separation first took place in 1295, and, the arrangement proving to be a suitable one, it developed into the two chambers known as the "House of Lords," made up of peers and bishops, and the "House of Commons," composed entirely of members elected.

For a long time Parliament grew steadily in power and importance. Kings were always in want of money, and in order to secure it they had to acknowledge definitely the great principle that before raising it by taxation the consent of Parliament was necessary. They were also compelled to agree that no law could properly be made without the consent of the Lords and Commons.

We find, however, that the Wars of the Roses caused a check to parliamentary enterprise and progress. These wars ended in the accession of the Tudors, and the Tudors found England exhausted from the long struggle, and willing to submit for the time to what was almost a despotism.

Still the Tudors were statesmen enough to see that no

matter how weary the country was, it would never submit to a despotism open and admitted. They were careful, therefore, to observe the outward forms of governing through Parliament, while at the same time they kept the substance of power to themselves. Owing to the preservation of the *forms* of deference to Parliament, that body, when the Stuarts came to the throne, was able to resist their illegal claims with energy and success.

The Stuart period constitutes the most important stage in the history of Parliament. During this period we see the seal set upon what had gone before, and we see clearly defined the rights and duties of both Crown and Parliament. Now James I. had brought up his son Charles I. to believe that the word of the king was law, and that it was the duty of Parliament to be nothing but the king's humble and obedient servant. The storm which such a doctrine was bound to bring about broke with full fury in the reign of Charles.

As we consider the great conflict, we have to remember always that Charles could not have maintained the struggle if he had not been assisted by his Ministers. In other words, Parliament, the lawmaking or *Legislative* body, was fighting for the control of the *Executive*, the body whose duty it was to carry out properly the laws after they were made.

The "Executive" consists of ministers of the king, who are nowadays entirely responsible to Parliament for the manner in which they administer the laws of the land. But the Ministers of Charles were of the opinion that they need only hold themselves responsible to him, and Parliament in consequence of this found that it was very little

use to lop the powers of the king if it only meant that he was to exercise them as much as ever by means of his Ministers.

It was this indirect control through his Ministry that Charles tried to exercise, but he lost his life in the attempt, and the end of the great Civil War found the power of the Executive considerably lessened.

During the reign of Charles II. Parliament kept on strengthening its position. A notable step in advance was the provision that the money it voted was only to be spent on the particular objects for which the king had demanded it.

James II. soon showed how little he understood that Parliament was determined to be supreme. He saw, indeed, that if he tried the same methods as his predecessors he would certainly be worsted ; so he hit upon the device of suspending any law he disliked. The result was that in three years he was a fugitive, and Parliament had called his daughter Mary and her husband William of Orange to the throne.

This great change is known as the Revolution, and it settled once for all the doctrine that the sovereign in England is sovereign through the approval of Parliament and subject to the consent of his people. We find the doctrine set out in the famous Bill of Rights passed in 1689.

Parliament also in the Bill of Rights asserted its control over the Army by stating that without the consent of Parliament it was not lawful for the king to maintain a standing army in time of peace. This declaration was further strengthened by the passing of the first Mutiny

Act, also in 1689, which declared that the consent of Parliament to a standing army must be obtained afresh every year. After these enactments there was no longer any fear that an ambitious monarch might crush Parliament by means of a standing army devoted to him, and ignorant of its dependence on Parliament.

In this memorable year 1689, too, the Parliament took over from the king the maintenance of the chief public departments, including the navy and army, and furnished the king with an allowance, to be voted annually, for his own personal expenditure, called the "Civil List."

From all these changes we see that Parliament had now practically assumed its present form, and little more needs to be said. Henceforward it is more concerned with its own internal growth than with fighting against attacks from the outside.

In these days it is our boast that England is a "democratic" country. We mean by that a country in which the majority of the people feel that they have a voice in the government of the state. Now it was not the changes at the Revolution that made England a democratic country, because the controlling power did not then pass to the people generally, but rather to the small body of nobles and landowners who had brought about the deposition of King James. And indeed it was right that the control of Parliament, and thereby the control of the sovereign, should pass to these men, not only because of their fight for the independence of Parliament, but also because the mass of the people were still too poorly educated to have so great a burden resting on their shoulders.

But as time went on the condition of the people improved. They grew to know the value of political power, and they felt that the time had come for them to have a larger share in the election of members of Parliament. They kept agitating until this was granted by the passing of what are known as "Reform Acts," the first in 1832 and subsequent ones in 1867 and 1884. The first effect of these Acts was to increase greatly the number of persons entitled to vote at parliamentary elections. Their next effect was to abolish what were known as "rotten boroughs," that is to say boroughs returning members to Parliament, although they contained so few electors that it was ridiculous to allow them such a privilege. At the same time new boroughs were constituted by giving members to a number of important towns which had hitherto not been allowed any representation of their own.

This short account of the growth of Parliament shows us how gradual were the steps that led to its present greatness. Little by little the people tightened their hold. The struggle was long and hard, but there was no turning back; and every change had the effect of strengthening their authority. Parliament and king now know their rights and responsibilities, and at the base and foundation of all our liberties we find the will of a free and loyal people expressed in the deliberations and decisions of a free Parliament.

## CHAPTER IV

HOW NATAL GREW TO BE A COLONY WITH  
ITS OWN PARLIAMENT

As this little book is intended to deal principally with our own Colony and with our duties and rights as citizens of Natal, we may be inclined to consider the previous chapters unnecessary. It may be thought that we ought to have begun at the outset with an account of our own constitution. But if we had done so, it would have been making our pyramid stand on its point rather than on its base.

The word "pyramid" is particularly suitable for use in this connexion because no form of building suggests more strongly both strength and symmetry. It will be shown clearly that our constitution possesses both these qualities. It is strong because it rests on principles that have been worked out by throwing away, one by one, the pieces that work badly. It is symmetrical because one part of the machine of government works into and completes the other parts, and so there is a regular gradation of duty from the humblest to the highest citizens in the land.

At the same time we are not to think that our government is perfect. There is no government in the world that can be called perfect. But this book will describe our government as it really exists, and no doubt possible ways of improving it will often occur even to us as we go along. Such ideas will certainly come to all who think

at all upon the subject, and one of the chief objects of this book is to induce its readers to take a lively interest in it.

Another reason why we should never cease to concern ourselves with the government of our country is that the conditions of life here are constantly changing, and so it becomes necessary for us to modify our practices from time to time.

When we said we intended to describe our Government as it is, did not that statement explain why the preceding chapters were necessary? Is it not simply that our constitution is modelled on that of England? In England the chief part is played by its Parliament, and so it was important that we should know something of its Parliament's history. People can always understand a child better if they know something of its parents.

A colony, we have seen, is a place in which people are planted. To an English officer of Marines, Lieutenant Farewell by name, belonged the honour of planting the first settlement of English people in Natal. He came here in 1824 to open up trade with the Zulus; and with him came a small band of adventurous colonists from the Cape. They landed at what is now Durban, and to a certain extent they prospered. Still the settlers did not receive much encouragement from the Governor of the Cape, though he kept a watchful eye on their dealings with the natives.

Some of the early settlers dropped out, but others took their places; and in 1835 they laid out the town of Durban. This was so named as a compliment to Sir Benjamin D'Urban, the Governor of the Cape Colony,



and the founders at the same time sent him a petition praying the English Government to recognise them as a separate colony, and to appoint a Governor. Their request was refused, but interest in the settlement was reawakened, and glowing reports about its natural richness were received at the Cape.

Until 1837 the English settlers clung tenaciously to their trading station at Durban, but in that year a new element was introduced by the arrival of hundreds of Dutch farmers from the Cape. The story of the "great trek" we have no room to tell, but an account of its hardships and heroisms should be familiar to every Natal boy and girl.

The new-comers were heartily welcomed by the English traders at Durban, and at once set about forming settlements all through Natal. We know the story of their struggle with the Zulus and their ultimate victory.

The Governor of the Cape was rather perplexed at the turn of affairs in Natal. He had always held that the farmers taking part in the "trek" had never ceased to be British subjects, and he was very much afraid that their conflicts with the natives might drag England into a new Kafir war. He was anxious to avoid anything of the kind, as there had been numerous wars with the natives in the Cape Colony, some of them having proved very costly and troublesome. Accordingly he feared that the trouble between the natives and the Boers might spread as far as the Cape unless something was done to remove the danger.

Whatever may have been the rights or wrongs of the case, it was decided to declare Natal a part of the British

Empire. This was done by Colonel Cloete in 1842, but it was not until 1856 that Natal was given a separate existence as a state. July the 15th of that year was a memorable day for Natal. Hitherto it had been part of the Cape Colony, but now, on the advice of Sir George Grey, a Royal Charter was issued separating Natal entirely from the Cape and giving it a Legislative Council of sixteen members. Twelve of the members were to be elected by the colonists, and four were to be appointed by the Governor.

The Royal Charter constituted Natal a "Crown Colony." In such a colony the Governor can refuse to sanction, that is, can "veto," laws passed by the legislature, and the administration is carried on by officials appointed by the Crown.

The history of Natal to this period should be very instructive to us, for it is an excellent type of England's method of developing her colonies. At first it was merely a "sphere of influence." That is, England did not claim any definite political authority, but she did claim that no other state should assert any right of interference or settlement in the country. Then we find Natal a dependency of the Cape and looking to that Colony for its laws. A few years passed and a Council was established, competent to make laws, but composed entirely of Government officials. Lastly came the establishment of a representative Legislative Council, strengthened by the addition of a certain number of officials. But the final step to responsible government was not to come for nearly forty years.

In the regular growth of English colonies, tropical

colonies with only a small white population remain "crown colonies," while colonies in more temperate zones and with a European population end by obtaining full self-government. Let us briefly trace the steps by which Natal followed out this tradition.

It might seem that the change to a crown colony was sufficient to satisfy the desires of the colonists, but as a matter of fact the effort to secure full self-government by means of a Parliament responsible to the people of Natal began soon after the granting of the Charter of 1856. The movement was a natural one. The essence of crown colony government is close control from England, not only through the Governor, but also through the heads of the Civil Service, who, like the Governor, are appointed by the English Government. These officers of course always do their very best for the interests of their colony, but cannot well forget that they are appointed by the Government in England. The colonists in consequence may feel at times that they are not in full sympathy with the officials. Moreover the colonist, while thoroughly loyal to the Crown, has the Englishman's love of self-government, and likes to feel free from interference in the management of the internal affairs of his country.

Ideas such as these worked in Natal, and, as the population grew, there was more and more talk of the need for a change in the constitution. The movement was kept alive also by the fact that it was necessary from time to time to alter both the districts from which members were elected and the number of members of the Council.

Sir Garnet Wolseley effected a particularly marked change in 1875. Acting under instructions from England,

he succeeded in passing through the Legislative Council a law adding eight non-elected members to its number. By this law, which was to be in force for five years, the Council was made to consist of fifteen elected and thirteen non-elected or Government members. In other words the colonists had no part in the election of practically half of the Council. This gave a great push to the movement for full responsible government. It may be said indeed that the movement now first took definite shape.

Henceforward the question was always in the forefront of Natal politics, and the subject was debated not only in newspapers but in the Legislative Council itself.

As early, indeed, as 1879, the Council passed a resolution "That this Council is of opinion that no form of Government that does not comprise the principles of Responsible Government, entrusted with the control and direction of Native Policy, will satisfy the requirements of the Colony."

The Home Government replied that in their opinion the "present circumstances of Natal rendered it advisable that the establishment of the system of Responsible Government should be postponed until the Colony is included in a general South African Confederation."

This reply did not satisfy the Legislative Council, which petitioned the Queen for a change in the constitution. What was particularly desired was the issue of Royal Instructions making Ministers removable if they should lose the confidence of the Council.

In reply the British Government stated that they would not oppose a change if it were approved at a general election. An election was at once held, but the

electors chose a majority of members who did *not* desire responsible government.

From this time until 1893 the question was earnestly discussed both by different parties among the people of Natal and between the Home Government and the Colony. Several proposals were made by the representatives of Natal, and rejected by the English Secretary of State, as adviser of the Queen, until Sir John Robinson introduced a Bill, which had been previously approved by the Secretary of State, and was finally passed on the 10th May, 1893, by twelve votes to nine. This Bill was confirmed by an Order of the Queen in Council, and is now known as the Constitution Act of 1893.

Perhaps we may think this account somewhat long and uninteresting, but we should not forget that there was a considerable difference of opinion on the matter amongst ourselves; and it moreover teaches us how careful the Crown is to impose suitable conditions before conferring so great a privilege on its colonial subjects. The negotiations showed particularly the jealous care which England bestows on her native races, and we should recognise that this very care is one of the noble characteristics of her rule of which we as Englishmen have a right to be proud.

The changes effected by the Constitution Act were many and important. A Legislative Council or Upper Chamber and a Legislative Assembly or Lower Chamber took the place of the single Legislative Council. The old official members of the Crown Council Executive Council were pensioned, and Ministers of the Crown were appointed from among the members of both Houses of Parliament.

Not more than two Ministers, however, could be chosen from the Upper House.

Ministers by the change became responsible to Parliament for their actions, and were only to remain in office so long as they had the confidence of a majority of its members.

The Sovereign, acting through the Governor, was to make the laws "with the advice and consent of the Legislative Council and Legislative Assembly of Natal."

One other thing we should know before leaving this chapter, and it is that our Parliament has not the same unlimited jurisdiction as the "mother of Parliaments" in England. The Parliament of England is the final and supreme law-making body for the Empire, and as it stands above all the courts of justice of the Empire, there is not one of them that can deny the validity of its laws. It could, if it liked, make laws even for the internal affairs of Natal; but we must understand that this right is only held in theory, and we cannot conceive of its being carried into practice.

On the other hand the powers of the Parliament of Natal are only those granted by the Constitution Act of 1893, and our own Supreme Court can disregard its laws if it is found that they go beyond the powers conferred by that Act. Another restriction is that no law can be passed locally which is "repugnant to the laws of England." This simply means that no law can be enacted which is contrary to any law of the British Parliament intended to apply to Natal. In this case also it would be competent for our Supreme Court to declare that such a law has no effect.

## CHAPTER V

HOW BILLS ARE TREATED IN THE  
LEGISLATIVE ASSEMBLY

The ground is now sufficiently cleared to enable us to leave behind the general survey of our Parliament, taken as it were from the outside, and to proceed to examine its work from the inside.

It is always more easy when trying to explain the working of a complicated piece of machinery to begin if possible with the particular part on which its success really depends ; and as the successful working of a government such as ours depends almost entirely on the successful working of Parliament, it will be convenient to try to learn as much as we can about that body.

Every now and then the people of Natal become greatly excited over what is termed a general election. For this general excitement there are excellent reasons. It heralds the birth of a new Legislative Assembly, and that Assembly, if nothing happens to bring it to a premature end, may under the Constitution Act endure for a period of four years. It is therefore understood that the electors of the Colony desire earnestly that from among those who stand for election only the best fitted citizens should be returned as members of the Assembly.

It is not every person in the Colony who can claim the franchise, that is, the right to vote at elections of members of the Assembly. The privilege is jealously guarded, and is confined only to those who succeed in

having their names inserted on carefully prepared lists called "voters' rolls."

∴ The "qualifications" that a man requires before his name can be placed on a voters' roll are as follows:—

He must be over twenty-one years of age, and must be a British subject either by birth or by having become naturalised, that is, by having been admitted to British nationality. He must possess immovable property worth £50, or he must rent a property of the yearly value of £10. If, however, he has not the "property qualification," he may vote as a lodger, or exercise what is called the "lodger franchise," provided he has an income of £96 a year, and has lived not less than three years in the Colony. Women have no vote. Nor have Natives or other coloured races, though it may be granted to those of them who comply with certain stringent regulations. Aliens, and persons convicted of treason or felony who have not received a free pardon, cannot vote.

The purpose of sending members to the Assembly is that every part of the Colony shall be fairly represented according to the number of its electors. The most convenient way of ensuring that this shall be done is to cut up the Colony into electoral divisions for the purpose of creating or *constituting* a Parliament, and these divisions are therefore called "constituencies;" after which it is laid down that each constituency shall have as many members as may be justified by its importance.

This course was followed in the Constitution Act, the Colony being divided into thirteen electoral districts returning in all thirty-seven members. Both the number of districts and the number of members have since been



increased, owing to the annexation of Zululand in 1897, and of a portion of what was the Transvaal in 1902.

No man can be accepted as a candidate for election to the Assembly unless he is a duly qualified elector himself and has been requested to stand by at least ten electors of the constituency in which he is presenting himself for election.

The general election is held at about the same time all through the Colony, and the voting is by ballot; that is, each man records his vote in such a way that no one knows for whom he has voted. The persons receiving the greatest number of votes are declared elected.

Once elected, a man remains a member for the whole life of the Assembly of which he is a member, unless he either resigns voluntarily or has to give up his seat.

Amongst the grounds for which a member is compelled to give up his seat are the following:—If he remains absent from his seat for a whole session, or ceases to be properly qualified. If he ceases to be a British subject. If he cannot pay his debts, or is guilty of treason or any infamous offence. If he becomes a paid servant of the Crown, or is a sharer in any contract made with the Government for more than one month; and so forth.

The reason for some of these conditions is clear enough. No man could well be allowed a seat in the Assembly if his character were bad; and if a man is a servant of the Crown, or is selling either goods or labour to the Government, he can hardly feel himself free to speak and to act in Parliament quite independently.

As soon as the general election is over and the numbers of the Legislative Assembly fully made up, the

Government of the day has to decide at what date Parliament ought to be summoned in order to consider the affairs of the country. The Government is not bound to meet Parliament at once, and may advise the Governor to wait until a more suitable time.

It is a principle, however, of English government that Parliament shall meet at least once a year; and so our Constitution Act provides that not more than twelve months shall intervene between the last day of one session of Parliament and the first day of the next. In this way the people of the Colony have an opportunity at reasonable intervals of learning what the Ministry intends, and of criticising, through their representatives, its way of conducting public affairs.

If the occasion arises, special sessions of Parliament may be summoned to discuss any special matters not dealt with at the ordinary session.

The Ministers, having settled on a date for the opening of Parliament, advise the Governor accordingly, and he issues a proclamation summoning Parliament "for the despatch of business."

Parliament meets in obedience to the proclamation of the Governor, and its first business is to attend on His Excellency to hear his opening speech. This speech is delivered to both Houses, which have met for the purpose in one chamber; and it excites much interest in the whole Colony. The reason is that the speech has in reality been prepared by the Ministry, and is the programme of the business which the Ministry intends to try to carry through Parliament during the session.

In the speech the Ministry thus lays bare its "policy,"

and the Parliament at once proceeds to discuss the terms in which a reply to the speech shall be made. This is the first opportunity which members have for criticising the Ministry, and if the Ministers have lost the confidence of Parliament, they are made to feel the fact in the course of debate.

It is interesting to notice that the Governor begins his speech by addressing himself to "Mr. President and Gentlemen of the Legislative Council, Mr. Speaker and Gentlemen of the Legislative Assembly," but when he comes to *financial* matters he is careful to turn to the Assembly alone and to say "Mr. Speaker and Gentlemen of the Legislative Assembly." In this way he recognises the principle that money matters come first and foremost before the Chamber directly elected by the people, the "popular Chamber" as it is called.

When the speech is concluded, the two Houses separate, and the business of the session begins in earnest.

The debates in the Assembly are presided over by the Speaker, who is a very important personage indeed. He is elected by the votes of the members on the day of the first meeting of the Assembly, and retains office not for a session only but for the life of the Parliament. His first duty is to ask the Governor to "confirm the privileges of Parliament." This is a ceremony which is now purely formal, but it was very real and very necessary in the old days when King and Parliament in England were still measuring their strength against each other.

The Speaker's duties are twofold. He represents the Assembly when it requires a spokesman for its dealings with outside people or bodies, and he presides over the

debates of the House. It is his duty to see that the proceedings of the House are carried on in a grave and orderly manner, and he decides all doubtful or disputed points as to the manner in which the actual business of debating shall be carried on, "points of parliamentary procedure," as they are called.

All questions submitted to the Assembly are decided by the votes of the majority, and the Speaker has no vote in the ordinary course. If, however, the *ayes* and the *nocs* are equal, the Speaker has to give a vote on one side or the other, which is cast into one of the two scales, as it were, and so decides the matter. This vote is called a "casting vote."

The Chairman of Committees presides when the House goes into Committee, and his duties are somewhat similar then to those of the Speaker, including that of giving a casting vote when necessary. We shall see later on why the House goes into Committee, and what the expression means.

The chief permanent official of the Assembly is the Clerk. It is his duty to record the proceedings of the House, and he is responsible for the custody of its records and for the general oversight of the other officials of the House.

The Serjeant-at-Arms is a picturesque officer. He maintains order within the precincts and attends upon the Speaker with the Mace. The Mace is the symbol of the authority of the Assembly. When the Speaker is "in the chair," it rests upon the Table, and it is removed when the House is in Committee.

We now know enough about the members of the

Assembly to be able to go on to the work which they have to do. Already we have seen how the Governor in his opening speech lets Parliament know what work the Ministry hopes to get through during the session, and one of the first things to be done is to adopt an "Address in Reply." This Address invariably contains two clauses, which are always the same; the one clause thanks the Governor for his opening speech, and the other requests him to convey to the King an assurance of the continued loyalty of the Assembly.

There is usually a very long debate on the "Address in Reply," because it is a subject on which members may discuss any matter they please. If the House is dissatisfied with the Ministry, "amendments" may be moved to the Address to let the Governor know that there is dissatisfaction.

If the debate shows that the policy of the Ministry is unpopular with the House, and if Ministers feel that a majority of members are against them on important public questions, they at once hand in their resignations to the Governor. This is a matter, however, about which we shall learn more in a later chapter dealing with the Ministry.

The working of the Legislative Assembly is regulated by "Standing Rules and Orders." One of the principal duties of the Speaker is to see that these Standing Rules are observed by every member.

A sitting begins with the reading of prayers by the Speaker, after which petitions are presented, if there happen to be any. The right of petitioning the Assembly is most important, for it is the only way in which a man

can bring his case directly in front of the House. No matter how humble a man may be, he may send in a petition and be sure that it will receive consideration.

Now is the time when members give notice that they will put before the House any propositions which they have at heart, or call attention to some point which they think might be overlooked. They say they will "move a resolution," and, accordingly, after petitions comes the giving of these "notices of motion." Then follows the laying of documents on the "Table." These are lodged as a rule by Ministers, and are filed among the records of the House. Such documents generally deal with matters connected with the various departments of the public service, and are supplied for the information of members.

The proceedings now follow the printed "notice paper," which shows what the business of the day is to be.

"Questions" come first on the notice paper. They are put to Ministers by private members, that is, members of the Assembly who are not Ministers. Sometimes questions are about the most trivial matters, but at other times they deal with subjects of real importance. The right of the private member to question members of the Ministry is of the greatest value, for it enables him to obtain information that otherwise he might find it almost impossible to procure. Ministers may at any time refuse to answer a question on the ground that to reply would not be in the public interest; but as a rule all questions are fully and courteously answered, even the trivial ones, so that there may be no ground for saying that information is refused.

After questions comes the discussion of Motions and Orders. Orders consist chiefly of debates on Government Bills at various stages, though there may be a sprinkling of motions which have had to be deferred or "adjourned" in the course of previous discussions.

Now the mention of Government Bills brings us to the most important duty of Parliament, namely, that of legislating or making laws for "the peace, order, and good government of the Colony of Natal."

Any proposed law is termed a Bill until it has passed both Houses of Parliament and then received the Royal Assent. These Bills are usually brought forward by the Ministry, but a private member may also introduce a Bill if he gets the permission of the House to do so. Bills dealing with public matters in which the whole of the Colony is interested are known as *Public Bills*, but there is also another class of Bills known as *Private Bills*, as we shall see shortly. Under the Constitution Act, Bills may originate in either Chamber, but in practice they are generally first introduced in the Lower House.

The making of a law is a serious matter requiring the fullest discussion; and in order to prevent hasty legislation every Bill has to pass through several stages in both Houses before it is ready to be presented to the Governor for the Royal Assent.

The first step in the passing of a Bill is its introduction. It is sent down to the Assembly with a "Message" from the Governor recommending it for consideration, and it is at once read a first time. This is formal and is done without debate.

The Bill is then set down on some convenient date for

“second reading” amongst the orders of the day. This is the most important stage in the history of the Bill, for it is now that the “principle” or main idea is discussed. If the Bill is passed at this stage by a fair majority, it is clear that it has the approval of the House in the main, and that subsequent criticisms will be directed rather to its separate parts or details. The House may reject the Bill by simply declining to pass it on this second reading ; or the Bill may be politely thrown out by an amendment that it may be read “this day six months.” As the House is certain not to be sitting in six months’ time, this is a way of saying that the Bill is disapproved by the Assembly.

After the Bill is read a second time, it goes into the Committee stage. A Committee of the Whole House is really the House itself ; only now the Speaker leaves the Chair, which is taken by the Chairman of Committees, who seats himself at the “Table” along with the clerks.

A “committee” of any sort goes carefully into details, and when the House “goes into Committee” the great advantage is that a member may speak as often as he likes, and thus the details of the Bill may be amended after ample discussion. It sometimes happens that a Bill is very considerably altered when in Committee, and made a much better measure than when it was read a second time.

After the Bill has run the gauntlet of Committee, it is “reported” by the Chairman to the Speaker as having passed through Committee with or without amendment, as the case may be, and it is then ready to be read a third time.



There are cases in which a Bill is thrown out in Committee by the carrying of a motion "that the Chairman do leave the Chair." The effect of such a motion is to cause the Chairman to leave the Chair without making any report to the Speaker, and it usually means that the Bill is put aside or "shelved."

After this, only the third reading stage remains, and this is generally passed without debate, for the opponents of the Bill know by this time that the Bill is sure to pass. No alteration can be made in a Bill at its third reading; and if it is proposed to make any alterations the Bill has to be referred back to the Committee of the whole House, that is, "re-committed." A Bill may be however thrown out altogether at the third reading, but this is a rare occurrence.

After the motion that the Bill be read a third time is carried, a formal motion is put "that this Bill do now pass and be conveyed by Message to the Honourable the Legislative Council by the Clerk at the Table." Its subsequent trials can be left for a later chapter.

So far we have only discussed Public Bills, but there is also the important branch of legislation dealing with Private Bills. These are Bills for the admitted benefit of private persons or corporations, and not necessarily for the benefit of the whole Colony. For example, Bills enabling a corporation to construct a tramway or to charge tolls are typical Private Bills.

A member intending to introduce a Private Bill has to move for leave to do so, after which the Bill is read a first time. It is then referred to a Select Committee of five or seven members. These members sit as judges upon the

Bill, and decide whether it ought to be allowed to proceed. If necessary, the Select Committee examines witnesses and listens to advocates, and finally reports to the House that in its opinion the Bill should pass or should be rejected.

Every Private Bill contains a "preamble" or statement of the conditions and circumstances giving rise to the Bill, and this preamble must be "proved" to the satisfaction of the Committee, or otherwise the Bill cannot go on. When the Select Committee has reported in favour of a Private Bill, it is set down for second reading and is treated for the future as a Public Bill.

Select Committees are sometimes appointed to report upon Public Bills of a technical nature, that is, Bills on the details of which only people with special kinds of knowledge can speak with authority; and altogether Select Committee work plays a large part in the business of the Assembly. People very often think that all that is done by Parliament is the discussion of Bills in open Session, but as a matter of fact a great deal of the hardest work is done quietly in Select Committee. Much more might be said about the work of the Legislative Assembly, but it will now be convenient to deal, in another chapter, with the procedure of the House as the guardian of the State's money and the paymaster of the State's servants.

## CHAPTER VI

HOW MONEY IS PROVIDED FOR THE PURPOSES  
OF GOVERNMENT

He must be a very unobservant person who can take a walk through any town in Natal and not see on all sides proofs that the Government under which he lives must spend a great deal of money in various ways.

He will notice, for instance, large public buildings, such as the Post Office and the Magistrate's Court, and inside and around these buildings he will find a small army of officials carrying on the work of their departments. Wherever he goes he will find members of the government police, wearing government uniforms and bearing government accoutrements. If he walks any distance out of the town he will pass over government roads and bridges, and if he goes anywhere by train he will be carried in a government railway train worked by government servants.

Unless then the person who does all these things is one of those people who have eyes but see not, he will be forced to acknowledge that the work of governing may involve in truth much complicated business. If he is minded to go further, as a good citizen should, and not say that "these things are too great for me," he will come to the conclusion that the duty of a Government is to set about its business of governing in a methodical and business-like way.

But he will further discover that the comparison between a Government and a large house of business

ends here. The aim of the house of business is to gather as large a profit as it honestly can; the aim of a Government is to govern as well and as cheaply as possible, and, above all, so to order its affairs that no single person in the country may be called on to pay more than his just share of the cost of governing.

It must also be remembered that in some countries the Government does a great many things which in others are left to private persons or companies. Thus, while in Natal all the railways are Government property, all the railways in England are owned and managed by private companies. Indeed, one of the most difficult of questions to settle is how much or how little it is desirable that Government should leave to be done by private persons.

Now all the money that the Government of the day requires for its work of governing has to be obtained with the sanction of the Legislative Assembly, and therefore the State looks to the Assembly to secure that each man's share of the burden shall be just.

The reason why the Government is compelled to ask the Legislative Assembly to vote the necessary supplies for the year is to be discovered in the principle that there shall be no taxation without representation. In other words, those whose duty it is to find the money required to carry on the Government have a right to say how that money can best be obtained. It also follows that the Assembly, which has to vote the money, is the proper body to say on behalf of the State, "We are able to raise so much, but no more."

All this now appears to us to be very simple and very reasonable, but we saw in a previous chapter that the

House of Commons had to fight exceedingly hard to get the Crown to leave to it the control of the public purse.

The means by which the Legislative Assembly finds the money required by the Executive Government is taxation, and it might be said that every manner of payment made by any person towards the expense of governing is a form of taxation. In practice, however, a narrower meaning is applied to the word taxation, and a distinction is made between direct and indirect taxation.

Direct taxes are those which are paid directly to the Government by the person taxed. The hut-tax paid by the Natives is a direct tax. Indirect taxes are duties levied upon articles imported from abroad; as Natal, for example, treats sugar, tobacco, and spirits. On every pound of sugar or tobacco, or on every gallon of spirits that an importing merchant sells, he has to pay a certain "customs" duty to the Government. The merchant consequently adds on to what the goods have already cost him the additional amount that he has had to pay as duty, and he raises the price to the person who buys. Thus the buyer has more to pay than would have been the case if the merchant had not to pay the duty.

In this way every person who takes imported sugar in his tea, or drinks imported spirits, or smokes a pipe of foreign tobacco, is helping to contribute *indirectly* to the cost of governing the country.

No indirect tax of this kind can be imposed unless it has first been sanctioned by the passing of a law. All these taxing laws have, as we have heard, to be introduced

first of all into the Legislative Assembly and passed by it. As, therefore, that Chamber represents the people, the passing there of a Taxation Bill is an acknowledgment that the tax is both a fair and a necessary one.

While on the subject of taxation we should be reminded that it is a principle of our constitution that no burden shall be imposed on the people unless it is necessary for the public service. The needs of the public service can only be made known to the Assembly by the Governor, the representative of the Crown, through his responsible Ministers. A private member, therefore, cannot move that a new tax shall be imposed or an existing one increased without obtaining the leave of the Governor to do so.

Besides the direct and indirect taxes, the Government raises large sums of money in various other ways every year. For instance, a large amount of money is constantly being paid into the Treasury by way of license and stamp duties. Every time too that a person purchases land, the State has to be paid a commission on the transaction. This too is a kind of taxation, as also are the Inland Revenue or Excise duties on beer and spirits manufactured in the Colony.

Then our Government further possesses two great profit-earning departments in the Railways and the General Post Office. The profits it makes from these are applied to the reduction of taxation; which is only fair, seeing that the expenses of working and managing these institutions are provided by the people of the country.

The Natal Government engages in other enterprises besides. It is true that these enterprises produce a

revenue and help to keep down taxation ; but the gain in this way may be counterbalanced by a loss in some other way. It is thus no gain to the community if the Government does something which could be more cheaply done by private people, nor is it a public gain if the Government discourages private people from embarking on new enterprises.

After this explanation regarding taxation we can return to the statement laid down early in this chapter that it takes a great deal of money to keep the Government of the country in full working order. Since Parliament in some shape or other has to find all this money, we ought to know the way in which the Government brings before it the necessary information to show how much it is asked to furnish every year.

We know that the Government is composed of a number of separate departments, each of which spends money every year, some more and some less. In the first place, the officers of these departments have to explain to the particular Minister who has charge of them why they require the amounts of money that they demand. When the various Ministers are satisfied that there is no extravagance in their departments, the Colonial Treasurer,<sup>1</sup> the Minister who has chief charge of the finances of the State, has still to be assured that the money they ask for is really required, because he is the Minister who has to explain to the Assembly that the Government are not extravagant, and that the Colony is able to afford the required money.

To be in a position to satisfy Parliament on these points,

<sup>1</sup> In England this Minister is called Chancellor of the Exchequer.

he obtains from all the other Ministers an account or "estimate" of the sums which their departments will require during the approaching twelve months, which in Natal are reckoned, for this purpose, from the 1st July and not from the 1st January. He is furnished at the same time with a statement showing how much the departments are likely to earn as well as to spend.

With this information before him the Treasurer examines the estimates very carefully to see whether it is possible to cut down the expenses of any department, and also to see whether he could rely on the accuracy of the forecast of income.

When the Treasurer is finally satisfied that both the expenditure and the revenue are fairly calculated, he has the estimates of expenditure drafted into the form of a Bill for submission to the Assembly. This Bill is known as the *Supply Bill*, and is perhaps the most important Bill laid before Parliament every year. In this Supply Bill the various departments of the public service are arranged in groups under their respective Ministers, and full information is given showing how much salary is paid to the various classes of officials and how much money is required for the other expenses of the different departments.

The following extract from the Supply Act for the year 1902-1903 will show clearly how the items of the Bill are set forth, and how the Assembly is enabled to compare the proposed expenditure with that of preceding years. In this way extravagance is checked, for any considerable increase of expenditure has to be satisfactorily explained before the House allows it to pass. The extract shows the



expenditure on the Government Laboratory, which is under the Ministerial control of the Colonial Secretary.

Numbers.		(a) SALARIES.	Salary of office.			Expended, 1900-1901.	Estimate, 1901-1902.	Estimate, 1902-1903.
1901-1902.	1902-1903.		Minimum.	Increment.	Maximum.			
			£	£	£			
1	1	1 Government chemist . . . . .	—	—	—	300 0 0	300 0 0	300 0 0
3	2	2 Assistants . . . . .	160	20	300	314 1 9	420 0 0	360 0 0
—	1	3 Assistant . . . . .	100	12	160	—	—	132 0 0
3	3	4 Natives . . . . .	—	—	—	41 11 4	60 0 0	60 0 0
7	7	Total for salaries . . . . .				655 13 1	780 0 0	852 0 0
		(b) Contingent and other expenses :						
		1 Fuel, apparatus, re-agents, and other expenses . . . . .				341 15 8	350 0 0	350 0 0

This extract deserves our attention as an illustration of the principle under which, when the Assembly votes supplies, the Government is required to state at the same time how those supplies are to be expended. The Government is empowered to spend the money only as the Assembly directs, and we shall shortly see what are the safeguards which the Assembly possesses to ensure that this condition is duly observed.

As soon as possible after the opening of Parliament the Ministry introduce the Estimates as a Bill, and this Bill is always known as the Main Supply Bill or Budget. The Bill is sent down to the House by a message from the Governor in the usual way, and is at once read a first time without any debate.

A date is then fixed for the second reading, and on the day appointed the Treasurer moves that the Bill be

read a second time. In moving the second reading the Treasurer makes what is in some ways the chief speech of the session. This speech is known as the Budget Speech, and it is the Treasurer's opportunity for reviewing the whole financial position of the Colony.

He tells the House what he thinks the revenue of the Colony is going to be during the financial year, and he gives details to show from what sources he expects to obtain that revenue. On the other side he shows how much money the Government are asking the House to furnish in the Supply Bill, and if, as is usually the case, the expenditure is an increase on previous years, he explains why this is so.

Sometimes the Budget Speech causes an animated debate, particularly when things are not going very well, but at other times the second reading is carried after very little criticism.

The Bill then goes into Committee of the Whole House, that is, discussion begins on the details, and then the troubles of Ministers begin. Every item may be put by the Chairman separately, and no matter how small it is, any member may get up and demand why it is necessary ; or several items may be taken at one time. The Minister in charge of the department concerned has to give the required information and has to satisfy the House that his demands are reasonable. Moreover the Committee stage of the Supply Bill affords a splendid opportunity to private members to bring to the notice of the Government any grievance connected with their own constituencies.

Sooner or later however the Supply Bill goes through

Committee, and is read a third time, after which it is sent to the Legislative Council.

The procedure as regards passing the Bill is much the same in the Council as in the Assembly, but as it is a *Money Bill*, the Council can only accept or reject it, and they cannot alter any of the items. The result is that they always pass the Bill without amendment, though at the same time they sometimes think it necessary to criticise severely the general financial policy of the Government in the debate on the second reading.

The Supply Bill is returned to the Assembly and then sent to the Governor; and he assents to it, on behalf of the Crown, after the Treasurer has certified to him that it is in order. When once the Governor has given his assent, the Bill becomes a full-grown Act and the Government can rejoice that it has got through the hardest work of the parliamentary session.

It has already been shown that every sum of money voted in the Act of Supply is accompanied by an intimation as to how it is to be spent. Certain sums of money are to be paid to certain officers; so much is to be spent on this thing and so much on that. The object aimed at is that so far as possible Parliament shall say how every penny is to be spent without going into unnecessary details.

Now without some check on any tendency to spend too much money, the Government might fail to observe the conditions imposed upon them. They might for example spend in erecting buildings money which had been voted for the purpose of making bridges. They might also fail to comply with the Supply Act through

the mismanagement of some of their officers. And if mistakes were made, Parliament itself might never get to know of them, for it would not have the time to examine or "audit" the accounts of the Government.

A permanent officer is required, whose duty it shall be to see that the Government and its officers are spending money only in an authorised manner. Such an officer is provided, and he is known as the Auditor General. He is, as it were, the "watch-dog" of Parliament, and every year he prepares a full report showing how the money of the Colony is being spent, and calling attention to any irregularities or any neglect of the directions of Parliament.

This officer should naturally be independent to a great extent of the Executive Government of the day; accordingly it is laid down by an Act of Parliament that he cannot be removed from his office without the consent of both Houses and the Governor.

As a further check on extravagance the Assembly appoints a Select Committee every year, known as the *Public Accounts Committee*, to examine the Government accounts and furnish a report to the House upon any special matters arising out of them.

Before finishing the subject of supply we must refer to "supplementary supply." The Supply Bill, as we have seen, is passed to provide funds for the coming year, and it is therefore quite impossible to say that it will be sufficient for everything that may be wanted. New matters keep cropping up for which no money has been voted, and the Government takes upon itself the responsibility of spending money on these new items. For

example, a great outbreak of disease might suddenly occur, and the Government might have to spend thousands of pounds in stamping it out. This money could not have been voted in the Supply Bill because no one was to know that there was going to be such an outbreak. Every year, therefore, the Government has to introduce *Supplementary Supply Bills* to meet the deficiencies arising from unforeseen circumstances. These Bills are prepared in the same manner as the Supply Bill, and are dealt with by Parliament in the same way.

The summing up of the whole question of Supply is this: Parliament in the first place finds the money for carrying on the Government by passing various laws providing for taxation, both direct and indirect, and by authorising the Executive Government to carry on certain kinds of business which earn a profit. Parliament, in the second place, says to the Government of the day, "You can have so much money to spend each year to carry on the work of Government, but it must be spent each year as we may have directed."

## CHAPTER VII

### HOW A BILL IS TREATED IN THE LEGISLATIVE COUNCIL

In a previous chapter dealing with the change from Crown Colony Government to Responsible Government it was pointed out that one of its effects was to set up two chambers, the one elected and the other nominated, in

place of the one-chambered Legislative Council that then existed.

The Parliament of Natal was in this way given a striking resemblance to the Parliament of England, and it is very instructive to note that the Home Government had to insist very strongly that there should be established an Upper as well as a Lower House. As a matter of fact, several Bills were passed providing for the change to Responsible Government, but none of them were drafted to include an Upper Chamber, and they were rejected by the English Government, one after the other, on the ground that the two Chambers were necessary. There were other reasons besides for rejecting them, but none upon which more stress was laid in England.

It will be worth our while, therefore, to ask ourselves why it was deemed necessary to insist upon there being two Houses of Parliament, when one would naturally think that for so small a Colony as Natal a single chamber would suffice.

A fairly obvious reason is that other colonies constituted like our own had two-chambered Parliaments, and so it was only following that example to require us to have the same.

Another cause was that experience had shown a second chamber to be necessary in any colony where the local Parliament both makes laws and controls the administration.

Moreover the Lower House is a body appointed by the votes of the mass of the population, and so it is moved by the same strong feelings as from time to time unsettle the people generally. Now these strong feelings are often occasioned by rather trifling causes, but this does not

prevent them from being very powerful, and so people are often made to look at things in a somewhat wrongheaded and excitable way. This excitement of the people may be communicated to their representatives in the Assembly, and the result may be hasty and ill-considered laws. But if there is a Legislative Council, that body has the opportunity of revising the laws that the Assembly has made perhaps too rashly, and as such a Council is composed generally of older men and is not so liable to excitement, it is able to bring to bear a wholesome and restraining judgment.

And while the Upper House is known to be able to deal with questions more fairly and coolly than its sister House, its business is to find out how much of the public opinion expressed in the Assembly is firmly held, and how much is due to mere passing feelings. So long as an Upper House bears this in mind, the good sense of the community will support it in any check that it may give to hasty legislation.

The preceding remarks apply generally to any Upper Chamber, but they enlighten us with regard to our own Legislative Council, and we may now proceed to describe its constitution and working with a better appreciation perhaps of its worth.

The expression "popular chamber" has been used already when speaking of the Legislative Assembly, and the term serves to distinguish it from the Legislative Council, which is a nominated and not an elected body. In other words, the members of the Council are not chosen by the votes of the people, but are nominated by the Governor, acting upon the advice of the Ministry.

At the present moment the law provides that this Council shall consist of thirteen members.

No person is eligible for nomination unless he is over the age of thirty, has resided in the Colony for at least ten years, and is the registered owner of immovable property which is worth £500 without anyone else having a legal claim upon it.

Members of the Legislative Council hold their seats for a period of ten years, but may be summoned for a further period. They are nominated from five districts, which are quite different from the electoral divisions returning members to the Lower House.

A member of the Council may resign his seat, and is disqualified on the same grounds as serve to disqualify the members of the Assembly. He is also disqualified if he ceases to keep his property qualification.

The officers of this House are very similar to those of the Assembly, though in some cases they bear different titles.

The sittings of the Council are presided over by an official called the President. He is appointed by the Governor, and his duties are much the same as the duties of the Speaker of the Legislative Assembly.

There is also a Chairman of Committees, who, as his title shows, has much the same functions as the corresponding officer of the Lower House. Then there is a Clerk of the Legislative Council, who corresponds to the Clerk of the Assembly.

The Legislative Council is in no way behind the Assembly in its respect for ceremonial and decorum, and accordingly though it does not possess a Sergeant-at-Arms,



it possesses an equally dignified official in the Usher of the Black Rod. This officer when on duty carries a handsome black rod, and he keeps in close personal attendance upon the President.

A great portion of the work of the Council is practically the same as the work of the Legislative Assembly, and there is but little difference in the procedure of the two Houses.

One of the main functions of the Upper House is to act, as has already been mentioned, as a check against too hasty legislation on the part of the Assembly, and so it is only natural that the Council should not deal with Bills until they have been considered in the first place by the Assembly. It is quite permissible, however, for the Ministry to advise the Governor to introduce any Bill, except of course a money Bill, into the Legislative Council; but it is the present practice in Natal to introduce all Bills into the Assembly, so that they may be passed by that body before being sent to the Council. There have been very few exceptions to this rule.

We must now see how the Council is put into possession of a Bill after it has passed the Assembly.

It will be remembered that we sketched the life of a Bill in the Assembly until the reading of it for a third time, and the carrying of a motion to convey it by Message to the Council "by the Clerk at the Table." This Message, which is signed by the Speaker, and has the Bill attached to it, "respectfully desires the concurrence of the Honourable the Legislative Council" in the Bill. The Clerk takes the Message to the Council, and, standing on the outer side of the *bar*, delivers it to

the Clerk of the Council, who has risen from his seat and come to meet him. The ceremony is very formal, for the visiting Clerk is escorted to the bar by the Usher of the Black Rod, and bows low to the President both when he comes in and again as he retires. The Message is then handed by the Clerk of the Council to the President, by whom it is read aloud, after which a formal motion that the Bill be read a first time is put and carried without discussion.

The succeeding stages of the Bill are similar to those which it has already undergone in the Assembly. It is read a second time, then referred to Committee of the whole House, and finally read a third time and passed.

If a Bill passes the Council without any amendments, it is simply returned to the Assembly with a Message stating that it has passed the Council. The Clerk takes the Message and delivers it to the Clerk of the Assembly with the same formalities as in the case of Messages from Assembly to Council.

It very often happens, however, that the Council thinks it necessary to amend Bills received from the Assembly. Sometimes it strikes out a clause or clauses. Sometimes it inserts new clauses. Sometimes it merely amends existing clauses. In each of these cases the Council acquaints the Assembly by Message with the alterations and requests its concurrence in them. The Assembly goes into Committee to consider the amendments, and either agrees with them in whole or in part, or disagrees with them.

Whatever the decision reached, it is communicated to the Council, again by Message, and, if the Council's

amendments have not been wholly accepted, the Message explains why the Assembly were unable to concur. As a rule the Council does not find it necessary to press its amendment any further, and permits the Bill to pass as it is received for the second time from the Assembly. The Bill is then sent back to the Assembly with a Message to this effect.

The Bill is now probably done with so far as the two Houses of Parliament are concerned. The next step is its presentation to the Governor. It is taken to Government House by the Speaker and handed to the Governor in person.

The Governor, who is generally advised in the matter by the Minister of Justice or the Attorney General, then gives the Bill his assent, in which case it is forthwith published as an Act; or else he *reserves* it for the signification of the Royal Pleasure. When we come to speak about the Governor, it will be seen that there are certain classes of Bills which he is bound so to reserve.

It will not be forgotten that reference has been made to the limited powers of the Legislative Council with regard to the passing of taxing and money Bills. To put it briefly, the Legislative Council may agree to but may not originate the granting of supplies or the making of taxes. It has, certainly, a clear right to express an opinion that the Assembly is acting unwisely in financial matters, even to the extent of rejecting a money Bill, but such a power is one that it would naturally only exercise in a very extreme case.

Turning again to the general relations between the two Houses, it might very easily happen that some subject of

importance might come up on which the Council and the Assembly could not agree by the mere exchange of Messages. There might be misunderstandings which written Messages would fail to clear up, and yet those misunderstandings might be of such a character that a personal interview between representatives of the two Houses would easily settle them. This was recognised when the Standing Rules of the two Houses were framed, and accordingly both sets of Rules provide for communication between the two Chambers not only by means of written Messages, but also by *conference*, by *joint committees*, and by *select committees communicating with each other*.

We have now made a general survey of the work and procedure of Parliament, and we shall be better able, in the future, to understand the records of its proceedings, with which the newspapers are so well filled when the Houses are in session. Only one or two points need now be mentioned.

Parliament meets at the command of the Governor and at his command also closes ; but it has to be understood that it is only called together or closed on the advice of Ministers. Although the Council is, as we have seen, a nominated and not an elected body, it does not continue to sit when the Assembly has been prorogued or dissolved.

To "prorogue" Parliament is to close its meetings for a time upon the issue of a proclamation by the Governor. A prorogation brings a session of Parliament to an end, and when the Houses are again summoned for the despatch of business a new session commences.

To "dissolve" the Legislative Assembly is to bring

it to an end altogether, and before a new Parliament can be summoned, a general election for the new Legislative Assembly is necessary.

Parliaments are numbered consecutively, commencing from the grant of Responsible Government, and are divided into sessions. Thus the session of Parliament that opened in April, 1903, is known as the First Session of the Fourth Parliament.

## CHAPTER VIII

### THE GOVERNOR

The Parliament of England consists of the Sovereign, the House of Lords, and the House of Commons. In the same way it may be said that our Parliament consists of the Governor, the Legislative Council, and the Legislative Assembly. The work of the Council and Assembly has been described at some length, and it is now time to examine the part played by the Governor in the administration of our affairs.

Just as some people like to say that the Legislative Council is unnecessary, so we shall find other people who seem to think that all Governors in self-governing colonies are purely ornamental personages. "He is merely a figure-head" they will say; "he only does what his Ministers tell him." It will be found that such remarks applied to the office of Governor are as foolish as the depreciation of the Legislative Council.

In every colony with a constitution like ours the Governor has two kinds of duties to perform, political

and social. Persons who, as the saying is, look no further than their noses, may think that his social duties are of extremely little importance; but as a matter of fact the courtesy and kindness of the Governor go a long way towards making a Colony a pleasant place to live in.

Nevertheless his political duties are the first consideration with every wise Governor, and therefore it will be of these duties that we shall treat in the first place.

The Governor takes the place of and represents the Crown in Natal, and so he discharges here many of the functions which in England fall upon the Sovereign. In his capacity as the representative of the King, he has to weigh carefully and, so to speak, balance his duty towards the Colony with his duty towards the Empire, which he is here to represent as the deputy of its monarch. He is as it were the connecting link between the Colony and the Mother Country; and on him falls the great responsibility of providing that, so far as his influence may prevent it, the Colony will do nothing to weaken the bands that attach it both to the Mother Country and to the British Empire as a whole. To put it in another way, the Governor is an Imperial as well as a Colonial officer.

The Governor then is for us the visible representative of the Crown, but this does not mean that he is invested with all the prerogatives or privileges of the Sovereign. He cannot in the exercise of his prerogative go beyond the scope of his "commission" or defined duties as Governor, and if he should attempt to do so, it would be possible for the courts of justice to determine that he is exceeding his powers.

The office of Governor of Natal was constituted by *Royal Letters Patent* dated the 20th July, 1893. These Letters Patent were issued in consequence of the passing of the Constitution Act, because the powers of the Governor of a Crown Colony, such as Natal was till 1893, differ from the powers entrusted to the Governor of a Colony having responsible government.

At the same time as the Letters Patent were issued, there were also issued *Instructions*. These instructions were intended to guide the Governor in his administrative duties. Both these documents were published so that every one might learn for himself the position politically occupied in the Colony by its Governor.

A great deal of information regarding the office of Governor may be gathered by any one who reads the Letters Patent and Instructions, though the reader must remember also that many of the duties of the post are determined by custom and past practice. It will be a good thing then to look for ourselves at some of the chief duties assigned to the Governor in the two documents, the Letters Patent and Instructions, and consider their bearing on the conduct of the affairs of the State; after which it will be time enough to consider his other duties.

The Governor is required by the Letters Patent to have his Commission read before either the Chief Justice or a Judge of the Supreme Court and the Executive Council as soon as possible after his arrival in the Colony, immediately after which he has to take the oath of office from the Judge. The Governor's Commission is his appointment as Governor. This is signed by the

Sovereign in person, or, as it is technically expressed, is issued under the Royal Sign Manual.

The Governor keeps the Public Seal of the Colony, and appoints all Ministers of the Crown, Judges, and other public officers. He may also grant a pardon, free or conditional, to any criminal, or may remit any portion of his sentence.

The Governor may suspend for a time or remove altogether any person holding office within the Colony, upon sufficient cause being shown. It must be noted, however, that there are special laws limiting this power in regard to certain officials whose duties are of a peculiar character.

The Governor may summon, prorogue, or dissolve Parliament; and he may appoint a Deputy Governor to take his place should he be going away from the Colony for a brief period.

These are some of the chief powers conferred by the Letters Patent, and now turning our attention to the Instructions, which supplement the Letters Patent, the following are the most striking features of that document.

The Executive Council is not to meet unless summoned by the authority of the Governor, who, unless prevented by some reasonable or necessary cause, shall preside at all its meetings. In his absence the senior member present shall preside.

Before exercising his powers as *Supreme Chief* the Governor, unless some other special provision is made by law, shall inform his Ministers of any action he proposes to take, and shall if possible obtain their concurrence.



All responsibility, however, for the action which he takes rests with the Governor himself.

As far as possible the Governor shall be guided in his acts by the advice of the Executive Council. If he acts in opposition to that advice, he is to report his reasons for so doing to the Home Government without delay.

The Governor is not allowed to assent to certain classes of Bills unless he has had directions from England to do so, or is satisfied that there is urgent necessity for his assent. Thus he must not assent to any Bill imposing special restrictions on the coloured population of the Colony which do not apply also to the European inhabitants. Bills affecting the rights of the inhabitants of other portions of the Empire also come within this class of Bill.

The Crown has no higher political duty than the duty of summoning Parliament. This duty, we see, is deputed to the Governor. The prerogative of mercy is one that has always been most jealously preserved by the Crown. Under the Letters Patent the Governor is invested with this prerogative. The appointment of judges and public officers is of vital interest to the Colony. These appointments rest with the Governor. All these powers and privileges, as well as the others that have been mentioned, show very clearly the extent to which the Governor controls the well-being of the country.

But there is further evidence of the Governor's authority to be found in the Constitution Act. Under this Act the Governor may refuse his assent outright to any Bill passed by the Legislature, or he may simply *reserve* it. As has been seen, his Instructions tell him what Bills to reserve. The same Act gives him power

to return a Bill that has been passed and to suggest amendments in it. The records of Parliament show that he has exercised this power on several occasions in order to improve a defective piece of law-making.

In the Constitution Act, again, we find that the Governor issues the writs for every general election, and further on we note that his warrant has to be obtained before any money can be paid out by the Treasurer.

It is quite true that many of the duties which the Governor seems to perform by himself are really carried out on the advice of his Ministers; still in theory they are entirely performed by the Governor. The reason for this is that at one time they were actually carried out by the Crown in the days when Parliaments were not so powerful as they now are.

The Governor's full title is "Governor and Commander-in-Chief in and over the Colony of Natal, Vice-Admiral of the same, and Supreme Chief over the Native Population;" hence it would seem that he is a many-sided personage. Indeed he has to be many-sided to do even his ordinary work as Governor, and so he would be a man to be pitied if he had to add to these duties the task of commanding an army of soldiers or a fleet of ships. We need not pity the Governor on this account, fortunately for him, because these titles are to a large extent only honorary. Perhaps this is as well for all of us too, because the Governor is sometimes neither a soldier nor sailor, and "civilians" are naturally not skilled in managing either troops or ships.

As a matter of fact, the Imperial troops in Natal are commanded by an officer of the established army, and the Governor does not in ordinary times interfere with that

officer. In case of a rebellion or insurrection in the Colony, however, the Governor would have the right to be consulted by the officer commanding the troops as to the best measures to take for its suppression.

Of course the Governor is the actual commander-in-chief of our local forces; but even here also he would leave the actual leading of the troops to their permanent commandant.

As Vice-Admiral of Natal the duties of the Governor are even less practical and more shadowy than his duties as Commander-in-Chief. Natal has no navy of its own, and so in time of peace the Governor has nothing whatever to do as Vice-Admiral; while in time of war the only duty the office entails upon him is that of constituting a "prize-court," to determine what shall become of vessels that may be captured by British cruisers and brought to a Natal port.

We now come to the Governor in his position as Supreme Chief over the Native Population. There is nothing shadowy or unreal in these powers, for they are of the utmost practical importance. The Supreme Chief, as the King's representative, exercises over all the natives of Natal all the powers and authority which a supreme native chief used to hold over the natives in their uncivilised state. As everyone knows, those powers were quite despotic, and although legislation has somewhat curtailed them in the case of the Supreme Chief, there still remains to him a very large authority.

When the Governor's Instructions were being considered, it was pointed out that one clause laid down that when acting as Supreme Chief the Governor should

consult his Ministers' wishes as far as possible, but that the ultimate responsibility for any action he might take would rest upon his own shoulders. This being so, it is as well that we should know some, at least, of the powers which the Supreme Chief may exercise.

He can dismiss from his chieftainship any chief guilty of a political offence likely to endanger the peace of the Colony, and may place him under supervision.

He is the political Head of the natives, and can amalgamate two or more tribes or split up an existing tribe.

In case of war or rebellion, he can call out the natives for the defence of the Colony, and he can also call them out to labour on the public works. He can fine and imprison any native who disregards his authority as Supreme Chief. By virtue of his office he is guardian over all native orphans and minors. The list is sufficiently long, but it is by no means complete; however, we have enumerated quite enough of his powers to show how exceedingly important is his office.

Now that so much has been said regarding the political duties of the Governor, it is time before leaving the subject to glance for a moment at the social side of his work.

It may be said that the Governor has an almost unlimited opportunity for bringing good personal influence to bear on all classes of the people. He stands above and outside contending parties in Parliament, and by his counsel and sagacity, and by bringing people of various views together in friendly ways, does much to heal differences caused by the conflicts of politics. He represents the Crown, and so, while dispensing a wise hospitality, he stands

for wider views and higher aims with the people of the Colony than their own narrow outlook might furnish. And it is no small matter that the dignity and grace associated with his high office and life in the Colony furnish a standard of refinement which is very necessary in a country that is still young and still growing.

## CHAPTER IX

### THE MINISTRY

One more short chapter remains before we can leave the study of Parliament and its constitution. We have seen Parliament at work, and we have seen it in its relation to the Governor, but so far we have given little notice to the body that sets Parliament going.

Without something to set it going, either from within or without, Parliament would be very much like a steam engine without steam, and would in some ways be almost as helpless. The motive force comes from the Ministry.

The rise of Parliament in England has already been described in outline, and the most striking lesson we learnt from it was that in the old days the country was ruled by the king acting through his Ministers, but that now the order has quite changed, and the Ministry rule the country acting through the king.

This is also the plan we adopted in Natal together with other practices copied from the constitution of England. We are in every sense governed by a certain number of Ministers, who, however, are careful still to

observe the form of using the name and authority of the Governor, the King's representative, to support them in a great deal of what they do.

Perhaps it is just a little wearisome to hear again and again that the Parliament of Natal is the real ruler of the Colony, and we might ask how it is that this body, which appears to confine itself to making laws and finding money to carry on the Government, can be said really to rule the State. The country is ruled by Parliament, and yet its business is conducted by a certain number of Ministers. Is this contradictory? The fact is that both statements are correct, as will be seen from what follows.

There are two great aspects of Government, the *legislative* and the *executive*. The legislative side of Government is that which is concerned with the making of laws; the executive side is that which is concerned with the proper carrying out of the laws when they are made.

Now the Ministry of the day are concerned in both processes, the legislative and the executive. They have a hand, as members of Parliament, in making the laws, and, as the highest executive officers of the State, they have to see that those laws are fairly and justly carried out.

The ordinary "private member," that is the member who, as we said once before, is not a Minister, has nothing whatever to do with the execution of the laws. His main business is to see that the laws which he helps to pass are properly drawn to meet the needs and condition of the country. The private member's position in the State, then, is much less important than the position of the Minister, for the Minister has as much to do with the passing of the laws as the private member has, and is in

addition entrusted with the high privilege of properly administering them.

Every member of Parliament is capable of being nominated a Minister. Of course no member is likely to become a Minister unless he shows himself to be possessed of the right qualifications; yet, for all that, the only condition required from a Minister is that he shall be a member of Parliament. In the first place, then, every Minister is a member of Parliament, and he will be allowed to remain a Minister and so carry out the laws, only so long as he both remains a member and has the confidence of his fellow members.

If a Minister forfeits confidence and does things which are disapproved by Parliament, he will quickly be called to account, and forced to resign his office.

For these reasons it is equally true to say that, (*a*) Parliament rules the country, and (*b*) Ministers govern the country. The explanation is, as we see, that Parliament governs the Colony *through* its Ministers.

Section 8 of the Constitution Act provides that "the Governor may designate such offices as he thinks fit, not being more than six in number, to be political offices for the purposes of this Act." The section then proceeds:—"Appointments to such offices shall be made by the Governor, in the name of Her <sup>1</sup> Majesty, and such offices shall be held at Her Majesty's pleasure, and be liable to be vacated on political grounds. The holders of such offices are in this Act styled Ministers."

The two following sections provide that every Minister

<sup>1</sup> Of course this Act was passed in the reign of the late Queen Victoria.

must be, or become within four months from his appointment, a member of Parliament. Not more than two members of the Upper House can be Ministers at the same time. Every Minister can sit and speak in both Houses, but can vote only in the House of which he is a member.

Besides the six Ministers provided for by the Constitution Act, a later Act provides for a Minister of Education, but the Minister holding such office is to be a person already holding a ministerial office under the Constitution Act. The number of Ministers therefore remains six, since one man has to be both Minister of Education and Minister of some other Department.

In England, which has what is known as the system of *party government*, the Ministers are selected from the leading members of the Party which happens to be strongest, and so long as the Party remains in power, any vacancies in the Ministry are filled up from its ranks. Here in Natal our legislature is so small that Party Government in the English sense of the word has not always been possible; consequently the Governor has designated as Ministers those leading members of Parliament who he considered would be acceptable to the Legislative Assembly.

This is a point that must be carefully noted. Ministers must have the confidence of the majority of the Assembly, for as soon as they are distrusted by that branch of the legislature and as soon as their general views or policy are condemned, they must resign their offices. The reason for this is that the Assembly is the chamber of the people, and accordingly Ministers who



forfeit the confidence of the Assembly are held to have forfeited the confidence of the people of the Colony.

It has happened at times in our parliamentary history that there have been two parties in the Assembly, the one known as the Government Party and the other as the Opposition. Whether this division into parties will become permanent is still doubtful.

Here and there we have used the expression "Ministers of the Crown," and it might be thought perhaps that the title is a somewhat strange one. Ministers are so called because they are *appointed* by the Crown, through its representative the Governor of the Colony; and because they are therefore responsible to the Governor for the fidelity of Parliament to the Crown. In this way Ministers are doubly responsible, owing one set of duties to Parliament and another set of duties to the Governor.

Since the Ministers are all appointed by the Governor, it might seem that he is also at liberty to dismiss them from office, even though they are supported by a majority, if he considers that their measures are injurious to the public welfare. In theory he certainly has this power, but it has never been exercised in Natal, nor is it likely to be so exercised. One such case did happen in another Colony under most exceptional circumstances, where a Governor dismissed a Ministry which was supported by a majority; and, as it happened, his action was subsequently approved both by the Home Government and by the Parliament of the Colony.

The amount of work that Ministers have to get through will be quickly recognised if one recalls what labour is involved in the business of governing the country.

Every one knows that even in a small private business, if it is well conducted, the work of the establishment is divided into various branches, and that in each branch some person is appointed to exercise general oversight and to see that one department works in with another. It is just the same with the daily business of a government. The administration of the country is divided into a number of branches or, as they are called, departments, and every Minister is given the charge of one or more of these departments.

It is by giving over these great departments to the charge of Ministers responsible to Parliament that the country is enabled to control the work of government. It would naturally be quite impossible for Parliament as a body to supervise the administration, so it hands the task over to its chosen delegates, the Ministry, and in effect says to them, "you are now responsible to us for the proper administration of those departments in the interests of the people of this Colony." In this way the chain of responsibility is complete, from the public departments to the Ministers in charge of them, from the Ministers to Parliament, and from Parliament to the people of the Colony.

The threefold position of Ministers was well summed up by the famous statesman, Mr. Gladstone, when, speaking of the English Ministry, he said, "Every one of its members acts in three capacities: as administrator of a department of state, as member of a legislative chamber, and as confidential adviser of the Crown."

Everybody knows that where you have a number of persons, or a "committee" as it is called, engaged in

carrying on some common work, it is necessary to have one member to preside over the committee. Now the Ministry is a kind of committee and has a chairman, and that chairman is known as the Prime Minister. "Prime," of course, means "first" or "chief," hence Prime Minister means nothing but first or chief Minister.<sup>1</sup>

Ministers, we have seen, are responsible to Parliament and are bound to resign office as soon as they lose the confidence of Parliament. Whenever this happens, the Governor sends for that member of Parliament whom he considers most suitable and requests him to form a new Ministry. The person whom the Governor asks to get together a new Ministry is usually the person whom he appoints Prime Minister. Sometimes the person summoned begs the Governor to excuse him from the task, and then the Governor sends for some other member.

The Prime Minister, whoever he may be, holds the office in conjunction with some other ministerial appointment. Thus a member may be Prime Minister and Colonial Secretary, or Prime Minister and Minister of Lands and Works, or Prime Minister and Treasurer.

As soon as a new Ministry is complete, its members become responsible for administration, and they have to remember that this responsibility is both collective and individual. That is to say, every member is responsible for the acts of the Ministry as a whole, and must support his colleagues even though personally he may feel inclined

<sup>1</sup> One curious point worth noticing about the position of Prime Minister is that it is an office which is not recognised by law in any way. The theory of the Constitution is that every Minister is equal, and that no one Minister has any pre-eminence over the others.

to differ from them. If a Minister feels that he cannot support his colleagues in public, he must resign and make room for some one who can.

Ministers have so much to do that they require to meet together frequently to talk things over. These meetings are called, in Natal,<sup>1</sup> *cabinet meetings*, and we must be careful to remember that the Governor has nothing whatever to do with them. Ministers meet privately in cabinet meetings, and the Governor does not attend.

At these cabinet councils Ministers discuss the various questions that come up from time to time for their decision as a body. They settle, for example, when to summon Parliament and what Bills to introduce. They discuss their foreign policy. They decide the amount of money to be spent on public works. They make new appointments to the Civil Service, and arrange for the promotion of deserving officers. In short, these cabinet meetings enable Ministers to agree as to how each of them shall perform the tasks falling to him in his own particular department.

In addition to the work done by Ministers in the way of ordinary administration, they have also very special functions to perform as Ministers of the Crown. The work that they do thus is for the most part done in Executive Council.

There is nothing, perhaps, in our Constitution which people are apt to find so confusing as the difference between the Cabinet and the Executive Council ; and one reason for this is that the Executive Council has often to

<sup>1</sup> In England the Cabinet is an inner *committee* of Ministers, not *all* the Ministry.

go over matters that have been previously discussed and decided upon by the Cabinet. This comes about from the fact that under our form of Government, which clings as closely as it can to old traditions, the Governor has to carry out matters which have been really determined upon by the Ministry. When this happens to be the case, the acts are said to have been done by the Governor in Council; and when we come across the phrase, we may as a rule feel sure that whatever has been done is due to the Ministry rather than to the Governor.

In this way the Executive Council, who are the constitutional advisers of the Governor, take upon themselves the responsibility which fell upon the Governor himself in the days when Natal was a Crown Colony.

The highest duties that a Minister undertakes are those of a member of the Executive Council. Before he can act as a member of it he has to take an oath that he will keep its proceedings secret, as an oath of allegiance to the Sovereign; and it is whilst engaged in Executive Council work that he realises most fully that he is a *Minister of the Crown*.

## CHAPTER X

### THE CIVIL SERVICE

In the preceding chapters it has been shown how the legislative or law-making machinery of the country does its work, and our next step will be to learn something about the people who carry the laws into execution. This

naturally brings us to the second great side of Government, the *executive*.

When we were speaking about the Ministry, it was shown that it was the head of the executive government, and it was also shown that it was liable to be turned out of office at any moment on losing the confidence of Parliament. It can easily be understood that if the business of the country were to be left entirely in the charge of persons liable to be turned out of office at a moment's notice with their unfinished work left to be taken up by new Ministers, then that business would certainly be conducted in a very unsatisfactory and haphazard manner.

In every country, then, governed by a parliament, care has to be taken that there shall be a body of permanent officials to attend to the daily work of the State; while care has also to be taken that these permanent officials shall not be unduly disturbed by parliament. This does not mean, of course, that they can disobey parliament, and do exactly as they like. It simply means that so long as they do the work set them in a quiet and efficient manner, they will be allowed to retain their posts and will not be affected by the going-out of one set of Ministers and the coming-in of another set.

Naturally a great many people are needed to do all the various kinds of work that fall to an efficient Government; so it follows that it is a great and important undertaking to arrange for the management of this body. Now nearly all the great undertakings for which our Parliament has to provide are set on foot by an Act of Parliament. Accordingly, one of the first things that Parliament did after Natal obtained self-government was to pass an Act

to regulate the conduct of the permanent officials of the State. This Act is numbered 21 of 1894, and its title is "To Organise and Regulate the Civil Service of Natal."

The word "civil," the Latin *civilis*, is used to distinguish between the functions of a "citizen," *civis*, and military duties, that is, those of a "soldier" or *miles*. The Civil Service is that permanent state organisation which deals with public affairs "on a peace footing." It still works in time of war, but in time of war it is the Military Service, or the Army and its officers, which takes the first place in the affairs of the State.

The distinction is one not quite easy to make out, for in times of peace, civil and military officers occasionally combine both characters; and the distinction really arose in days when the Military as a class were much more independent of the civil authorities than they are now.

It is perhaps safest to say that the Civil Service consists of those permanent public officers who are not engaged for the express purpose of fighting.

In the old Greek states it was often looked upon as a privilege to be allowed to serve the state, and the same feeling has happily prevailed in England. In a young state like ours such a spirit as this is apt to be lacking, as people so often set their minds on taking up some business in life that will enable them to become rich and prosperous in as short a time as possible. It is only reasonable to urge that, if the country is to be administered as well as it ought to be, the best men should come forward to do the work, and therefore a Civil Service should attract the best men in the country.

The object of the Civil Service Act was to obtain an

efficient body of public servants, and for the better furtherance of this object there have been passed certain other Acts. Under these series of Acts the Service is divided into clerks of various grades, and full provision is made for the appointment and pay of officers, not only in the Acts themselves but in regulations framed under the Acts.

Most Civil Servants join the Service in the lowest rank of clerks, and it is only by proving themselves competent that they can work up to the highest ranks. There is no reason why Civil Servants of whatever grade should not, if they have the qualification, reach the highest positions in the Service.

Persons entering the Service have to pass preliminary examinations or else prove their fitness in some special manner. There are certain officers, such as engineers, doctors, veterinary surgeons, and so forth, who must possess special knowledge, and these officers are at present often obtained from outside the Colony as there are no means of training them in Natal.

In some respects Civil Servants enjoy special advantages above people engaged in other professions. As the servants of the State, they are always sure that they will receive their salaries; they are less liable to be removed from their posts than persons working for private individuals or firms; by means of regulations they know exactly the extent of their privileges as to leave of absence and otherwise; and, after serving for a certain number of years, they become entitled to a pension, the amount of which depends upon length of service.

It is time now to examine the work that the Civil Servants have to do.



It will be remembered that one of the chief duties of Ministers was that of taking charge of the various departments of the State. They are in fact the persons from whom the Colony demands assurances that its Civil Service is doing its work well and faithfully. To give the Ministry a fair chance of being able to perform this duty, the service is divided into *ministerial departments*.

According to the Constitution Act there are only six ministerial offices; hence it would appear that there should be six ministerial departments. This need not be the case, however, for sometimes a Minister is not charged with the care of any particular department, in which case he is said to be a Minister "without portfolio."

Although the Constitution Act says there shall be six ministerial offices, it might appear that there are more than six persons in the Ministry. The titles of the Ministers are these: Prime Minister, Colonial Secretary, Colonial Treasurer, Minister of Justice, Secretary for Native Affairs, Minister of Lands and Works, Minister of Agriculture, and Minister of Education. There are here apparently eight Ministers, but there are really only six, because both the Prime Minister and the Minister of Education hold these offices in addition to some other ministerial office. Sometimes also the duties and the title of Minister of Defence are given to a Minister already holding another office.

These Ministers may each have any number of departments under their charge, and these departments are made up of all the persons engaged in some particular portion of the work of the Service. Thus all the officers employed throughout the Colony in the work of the Post Office

constitute the Postal Department; all the persons engaged in connexion with the collection of the customs duties belong to the Customs Department; and so on.

Ministers then have often a number of these departments under their charge, and there are numerous clerks employed and offices scattered all over the Colony. It is clear that one man cannot properly look after a large number of these departments, and therefore the Civil Service Acts provide that there shall be a number of permanent Heads of Departments. These permanent Heads, who are sometimes known as Under Secretaries, are the officers responsible to the Ministers for keeping departments in good working order and administering them without extravagance. All matters of routine are dealt with by these permanent Heads, and only critical questions or matters depending on new principles which Ministers or Parliament wish to establish are settled by Ministers. The head of the permanent Civil Service, and the right hand of Ministers in all matters of administration is the Principal Under Secretary.

So far as it is possible, each department in the Civil Service is managed separately from all the others. For example: if one department does any work for another or supplies it with any goods or materials, it charges the cost to the department benefited. The reason for making the charge is that at the end of the year it may be seen how much every department has cost the country; and unless it paid its way like any ordinary business, any return of its cost would be misleading. But at the same time it has to be kept in mind that each department is working for the same master, the State.

Besides being the servants of one common master, the various departments of the Civil Service are paid out of one common fund. That fund is known as the Consolidated Revenue Fund, and it really means all the money collected by the Government throughout the year. Since, then, one fund is drawn on to pay the cost of all Government departments, it follows that there must be a general agreement amongst the Ministry as to how much of the fund is to be allotted to each department. This matter is settled to a very great extent in the annual Supply Act; but every now and then the departments ask for certain things to be done for them which will cost money not already set aside by the Supply Act, and in such cases the Ministry decide as a body whether these requests shall be granted.

As Civil Servants are the servants of the State, it is a stringent rule that they shall not take any part in politics. The reason for this is that the main business of politics is to watch and criticise the acts of the Government. Now if Civil Servants were to be allowed to criticise the acts of the Government, they would be criticising their own master, for they are the servants of the Government; and if this were permitted there would soon be an end to all discipline. If carried far enough, it might mean that the Government officials instead of being the servants of the Colony might become its masters. Clearly such a state of things would be intolerable. But though he is not allowed to take public part in political conflicts, every Civil Servant who has a vote can exercise that vote at an election just as freely as any private citizen.

And he votes as he likes, for the ballot is secret.

## CHAPTER XI

## THE WORK OF MINISTERIAL DEPARTMENTS

We have now learnt something about the constitution of the Civil Service and have seen how it is divided for the sake of convenience into ministerial departments. It is worth while to look into some of these departments and to see for ourselves the kind of work they have to do.

Let us then take the various Ministers one by one and see what manner of work they and their departments carry out.

The Prime Minister first. He has no special department as Prime Minister but carries on the work in conjunction with some other office. A recent Prime Minister was also Minister of Lands and Works, and while this book is being written the Prime Minister is Treasurer.

The Prime Minister, as the leading Minister, has a great deal to do with the Governor, and he carries on all the correspondence between Ministers and the Governor. He also does a great deal of work when Parliament is sitting, because he takes charge of more Bills than any other Minister.

Every Bill introduced into Parliament by the Government has to be taken in charge by a Minister. This Minister tells the House all about the Bill, explains its principle when it is being read a second time, shows why it was necessary to bring it forward, and answers all questions and objections regarding the Bill.

Sometimes all this is a very difficult task, especially

when a Bill meets with strong opposition; and so the Minister in charge needs both tact and a special knowledge of his subject if he is to persuade the House to pass the Bill. The Prime Minister has more of this kind of work than any of his colleagues, and he often has to work hard to learn all that he can regarding the Bills which he has to explain.

In the chapter dealing with the Ministry a reference was made to their cabinet meetings. At these meetings the Prime Minister presides, and here, amongst other difficult duties, he has to satisfy his colleagues regarding matters connected with foreign affairs or with the general policy of the Government.

More might be said regarding the Prime Minister's duties, but we have seen enough to recognise that the post is not an easy one. To assist him the Premier has a Secretary, who is one of the senior officials in the Service and must be particularly well versed in Government work of all kinds.

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We come now to the Colonial Secretary, a very heavily burdened minister. He has quite twenty different departments under his control; some of them, especially the Magistracy and the Post Office, being amongst the largest and the most busy in the whole of the Civil Service. If, as is sometimes the case, the Colonial Secretary combines with his office that of Prime Minister or Minister of Education, his task is truly serious.

The Colonial Secretary takes charge of the Colonial Office, while the other departments under his control are

supervised by permanent officials responsible to him and under his general direction.

The Colonial Office is a sort of Civil Service maid-of-all-work, and deals with the administrative details of the management of the whole Service. It keeps the records of every Civil Servant, notes when he entered the Service, what pay he receives, what leave he has had, how he stands for promotion, and in fact everything of importance in the official life of a Civil Servant.

The numerous regulations regarding the pay of officers, their travelling allowances, their classification, are drawn in this office.

The Colonial Office is responsible also for the issue of the Natal Government Gazette. This is the official Government newspaper, containing all the information regarding the working of the Government and its various departments which it is desired to give to the public.

The Post Office is the largest department under the care of the Colonial Secretary. The official in charge is the Postmaster General, who is assisted by a Secretary and a small army of other officers.

The Post Office has what is called a monopoly. In other words, no private person has the right of carrying letters or newspapers from one place to another in exchange for a fee. The public are not harmed by this monopoly because all the work being in the hands of one organisation, it is possible to carry it out at a far cheaper rate than would be possible were there several competitors. The Post Office does not attempt to make any large profit out of its work, nor, on the other hand, does it pretend to

do the work at a loss ; and any gain that is made goes to the benefit of the public funds.

The Telegraph service is very similar to the Post Office service, and the two branches make up what is really only one department. Consequently the Postmaster General is also General Manager of Telegraphs.

The land telegraph is a Government monopoly like the Postal service, but the wires or "cables" under the sea are owned and worked by great cable companies.

The Immigration Department also falls to the Colonial Secretary. This department arranges for the introduction at cheap rates into Natal of servants and labourers from Europe. It collects a fee large enough to cover the passage money from any person wishing to get out a servant or labourer, and then the Agent General in England books the passages and sends out the persons.

To the Colonial Secretary's Department belong also the care and maintenance of the sick and insane. There are large Government hospitals at Pietermaritzburg and Durban, which are open to sick persons who are too poor to pay doctors and buy medicines for themselves. The doctors at these hospitals are paid by the Government, and the medicines are supplied free. Only destitute persons, however, are treated free at these institutions ; others have to pay according to their means.

The Public Health department is responsible for the general sanitation of the Colony. It takes all the measures necessary to keep down and prevent the spread of virulent diseases, such as plague or small-pox, and has officers stationed throughout the Colony to guard the public against serious breaches of the laws of health.

We see now how much responsibility is thrown on the Colonial Secretary. Let us leave him and look into the office of the Secretary for Native Affairs.

The first thing that attracts attention is a group of natives in the court-yard, and when we reach the Minister's own room there will probably be another group there. These Natives may have come from all parts of the Colony, even from the most distant border of Zululand; but they have come to the Minister knowing that whatever they have to say will be heard with patience, and that their grievances will be remedied if it be found that they have suffered any wrong.

The Secretary for Native Affairs has the support and advice of the Under Secretary for Native Affairs, an officer well skilled in the native language and customs and known by repute at least to every native in the Colony.

These two officials are almost looked upon as fathers by the natives, and no distance is found too great by a man desirous of laying any special trouble before them. One of the two is sure to hear what he has to say, and whatever the result of the interview, he goes home satisfied that he has had a fair hearing from some one who understands him.

The granting of interviews takes up considerable time in the Native Affairs Department, and there are certain clerks appointed to take their share of the work. Besides this, a great amount of administrative work has to be performed by this office. To enumerate all would be impossible in a short space, accordingly we shall, so to say, merely sample it.

This department hears evidence and settles questions



relating to boundary disputes between different tribes or concerning the succession to chieftainships. Both these matters are of frequent occurrence, and they require to be dealt with very carefully, since a mistake might lead to faction fighting and the spilling of blood, or to other evils.

No native can own a gun unless he obtains a pass from the Secretary for Native Affairs. Such passes are only granted after full enquiry.

The department has men stationed through the Native Locations or Reserves, charged with the duty of reporting the conduct of the natives to head-quarters.

The Natal Native Trust is managed by the department. Under this Trust, which was constituted so far back as the year 1864, a large amount of land in different parts of the Colony was set aside for the benefit of the natives, and the administration of these lands gives the department a great deal of work. The Governor is the head of the Trust, but it is practically controlled by the Secretary for Native Affairs.

There are many things which the natives cannot do unless they first get a pass giving them permission. For instance they cannot leave the Colony by land or by sea without a pass. They cannot drive cattle from one place to another without a pass. This is to guard against stock stealing. The granting of these and other passes is regulated by the Native Affairs Department.

One more reference, and then we may go to another department. The Secretary for Native Affairs controls the calling out of the natives to give their labour on the public works of the Colony. Natives so called out receive a fair rate of wages, and are only obliged to serve for six

months at a time. The principal work on which they are employed is road-making, and it is the duty of the department to see that no native is called out too often and that every tribe furnishes its fair share of the number of men wanted.

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We now come to the Treasury. This is in many ways the most important department in the Government service. No Minister has greater power and greater responsibility than the Treasurer. It is his task to see that enough money is raised every year from various sources to meet the expenses of governing the country. But this is not all. He has to make sure that the different classes of the community each contribute their fair share of this taxation, and that the money required is raised in such a way as not to hinder the progress of the Colony in trade and industry. This is his duty as regards the Government.

He has another duty, in relation to the people. He has to take care on their behalf that there is no waste in any Government department. He has to make sure that the money for which the departments apply is spent in such a way that the Colony is getting the full benefit of what it cheerfully gives. If he considers that a department has too many clerks he would not hesitate to say so. His word carries a great deal of weight in the Ministry, and if he says some proposed expenditure cannot be afforded, then the proposal is laid aside until he says that it can.

The Colony from time to time borrows large sums of money in Europe to be devoted to harbour and railway

improvements, to public buildings and to other purposes of a lasting nature. Such undertakings as these are paid for out of *borrowed* money for a reason which should be carefully noted. Great public works must needs cost very great sums of money, and sometimes involve the spending of millions of pounds. If the country tried to pay for these out of the money collected in taxation for one or two years, it would hardly be able to face the task. Besides, these great works are meant to benefit future generations, which will go on using them long after people now living have passed away. It is considered fair, therefore, to undertake these great public works with *borrowed* money on which interest continues to be paid for several or for many years, and which is paid off altogether not in a lump sum, but gradually.

The railway to Johannesburg was built with borrowed money, and interest is paid on this money every year out of the year's revenue. We are still reaping the benefit of having the railway, and so are getting something in exchange for the interest which we pay.

The Treasurer, then, has to see that only works which will prove of service for a series of years are paid for out of "loan funds"; and whenever a loan has to be raised, he has to see that the money is borrowed at a favourable time and for a reasonable rate of interest. In the case of many loans he has also to provide for a *sinking fund*, which is the fund set apart from year to year for the purpose of reducing a loan and finally paying it off altogether. The time allowed for paying off a loan corresponds as a rule to the length of time during which the works will be of service.

The Savings Bank is a separate department with the Treasurer as its Ministerial Head. This department is one of those which particularly concern private people. It takes charge of the savings of thrifty persons and allows them interest at the rate of  $3\frac{3}{4}$  per cent. Persons who deposit money can withdraw it again at any time. It is more useful than the ordinary banks to people who can save only little at a time, because it will receive very small sums of money and pay interest on every penny deposited. Private banks do not take charge of small deposits, nor will they pay interest on such favourable terms to the depositor.

As there are branches of the Savings Bank at all the magistrates' courts, persons who deposit money in one place, Durban for instance, are able to withdraw it again at places a long way off, as, for instance, Eshowe or Newcastle.

One naturally thinks of the Audit Office when speaking about the Treasury, but, as it is, the Audit Department is under the control of the Colonial Secretary. There is no need to describe the duties of the Auditor General, since they were set out in the account of the Supply Act and in the description of the checks provided to see that the provisions of the Act are observed by all Government officials in every detail.

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The Customs Department collects a great deal of money for the service of the State, and so it comes under the Treasury. We have seen already how a great part of our revenue is gathered through indirect taxation in the shape of customs duties. This revenue is received principally at Durban, which is at present our only port.

The customs dues vary on different classes of goods. The principle which generally applies is that luxuries shall be more heavily taxed than necessities. Articles of food, for instance, pay a small duty, while tobacco pays heavily.

Goods may be stowed in *bonding warehouses*; in which case the importing merchant does not pay the duties until he has *cleared* the goods. To *clear* is to remove from the bonding warehouse. The advantage of this arrangement is that a merchant need not pay customs duties until he has sold his goods, and consequently he has not to stand out of his money for so long a period.

Attempts to smuggle goods into the Colony are not uncommon. To prevent this goods have to be landed at certain times and at certain fixed places, and vessels may be boarded and searched by the officers of Customs at any time.

All the British States in South Africa belong to a common *Customs Union*, under which the same rates of customs are levied upon all goods imported from places outside the Union. Under this Union, if customs duties are paid to Natal on any imported goods to be sent to the Transvaal or any other colony, no further duty is imposed when the goods cross our borders, while ninety-five *per cent.* of the duty which Natal has collected in the first instance is handed over to the Transvaal or other colony, and five *per cent.* retained by us as payment for the trouble of collecting.

The Excise Department is somewhat similar to the Customs Department. It is the business of the Excise officers to levy a certain duty on every gallon of beer brewed or of wines made or spirits distilled in the Colony.

The difference between Customs and Excise duties is that the former applies only to imported goods and the latter to goods manufactured within the Colony.

The last great Ministerial Department with which we have to deal is that of the Minister of Agriculture.

The chief functions of this department are explained by its name. All those matters which deal with improvements in cultivation and with the curing of diseases in stock are under the care of the Department.

Here will be found a dairy expert to teach farmers the latest methods in butter making; an entomologist, to show people how to keep their fruit free from insects and "blight;" and a whole corps of veterinary surgeons to fight the stock diseases that are unfortunately so common in Natal.

There is one officer specially engaged in scientific researches to try to find a preventive for such scourges as horse-sickness and lung-sickness. There is another officer in charge of experimental farms owned by the Government. On these farms various experiments are tried to ascertain the effect of different manures upon the soil, and to see whether new and improved methods of cultivation cannot be found to increase our agricultural wealth.

The Mines Department also has been joined hitherto to the Agricultural Department. This department is a large and growing one. There are numerous coal mines in the Colony, and it is the duty of the mines officials to see that they are properly and safely worked, and that any

“royalties” or other dues are paid to the Government in full. A royalty is a certain tax imposed by the Government upon minerals, and is always exacted unless the Government parted with all rights to minerals when it originally sold the lands.

Other minerals besides coal are found in the Colony, and the department issues every year a great many prospecting licenses, for each of which a fee is charged.

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This survey of the Government departments is by no means complete, but it is all that our space permits us to make, and is quite enough to show that the Government does a very great deal to organise the activities of the people of the Colony and to contribute to their profit and comfort.

Nothing has been said in this chapter about the duties of either the Minister of Justice or the Minister of Education. The reason for this is that the administration of justice and the education of the people are matters of such importance that they require to be dealt with separately.

## CHAPTER XII

### HOW THE BODY OF LAWS WAS PUT TOGETHER

We have now taken a survey of two of the great functions of government. In the first place we saw Parliament at work making the laws of the land, and

in the second place we saw something of the way in which the great departments of the State carry out the laws after they have been made. We have thus surveyed the *legislative* and the *executive* sides of government. One great side still remains unexplained, the *judicial*.

The world has advanced many stages in civilisation and humanity since the days when the punishment of a crime was estimated as the price of "an eye for an eye and a tooth for a tooth." The State will still demand a life for a life when murder has been done, yet even taking this into account, it cannot be denied that we do not treat crime as severely nowadays as was the custom of our ancestors.

But though the evil-doer in these humane times is punished more lightly than used to be the case, still he has to be punished in some fashion or other if only that we may be made to feel secure in our homes and when we go about our business.

It would be of very little use, quite useless indeed, for Parliament to busy itself in making the wisest of laws, if those laws were not to be enforced, and if criminals were to treat the laws as only so much waste paper. Very little comfort would it be to us to know that the law says that it is wrong to rob or to assault others if we did not also know that there are police to protect us from being robbed or assaulted, as well as judges and magistrates to punish those found guilty of committing robbery and assault.

Parliament is now, as everybody knows, the chief law-maker in the land, but there was a time in the history of man when parliaments were unknown. If ever there



was a time when there were no laws at all, such a state of things must have passed away with the growth of population, when various peoples and tribes began to follow unwritten rules for their own guidance. These rules began to be so generally observed that they became veritable *laws*, and they differed only from parliament-made laws in having grown up merely by *custom*. Then as civilisation increased there came parliaments, very rough and ready at first, but still parliaments, making laws of set purpose, and seeing as best they could that the laws were properly carried out.

But even after parliaments were fully organised, while behind them stood governments ready to enforce their laws, the process of making laws by custom still went on. Indeed it is still going on at the present day, for it is quite a common thing in a court of law to hear that such and such a thing is the "custom," and for the judge to give his decision in accordance with the custom brought to his notice.

This law which is the fruit of custom is the law which we now know as the *common law*, but when we use the expression we have to remind ourselves that the common law is not altogether the growth of custom. The reason for this is that a custom required to be changed slightly at times because it had grown out of date; and so it was the habit of judges when dealing with particular cases to modify the custom to suit the altered times. In this way the judges to some extent made new law, and so the common law is composed of customs modified by judges' decisions.

No doubt this was a most fair and convenient method

of law-making, because it meant adding on to the common-sense of the people the special knowledge possessed by the judges of the changing circumstances and needs of the land.

But as time went on, this manner of law-making was found to have one serious fault. It did not go fast enough. At first the judges' modifications of the custom-law were just what was required; but as disputes grew in number it became more and more difficult to decide them in this way. The judges were unable to deal satisfactorily with all the cases that came before them, and the fountain of justice was in danger of being choked.

Fortunately parliaments were at work, and they were not slow to pass laws suitable for dealing with those cases which were not sufficiently met by the common law. The laws passed by parliaments became more and more numerous and the whole of them taken together form the *statute law* of the country in which they were passed. A law passed in parliament is sometimes called a *statute*; hence the term.

Plenty of cases could easily be found where parliaments have had to step in when the judges found themselves unable to suit the common law to the changing conditions of the times.

There is also another important division into which the law falls whether it be common or statute. This is the division between civil and criminal law. It is necessary that one should understand the difference between the two, for otherwise many things that have to do with the carrying out of the laws will prove rather puzzling.

A criminal offence is one which, while it is committed

against a certain person or persons, is in a sense committed also against the whole community; consequently the whole community exacts punishment from the offender. In cases of this kind the person who is hurt or damaged does not himself prosecute the offender, but leaves the prosecution to the Crown, or in other words to the Government. To take a common example; if a thief breaks into your house it is to the interest of all honest and law-abiding people that that thief should be arrested and punished. In consequence, the Government, acting in the interests of everybody, sees that the criminal is suitably punished. You who were wronged more particularly may get no compensation from the thief, but you know that, so long as he is in prison at any rate, society will have one thief the less to dread.

Civil cases on the other hand are those which especially concern individual persons without making society feel that it as a whole requires to be protected from the offender. "Crimes" is the term usually applied to offences committed against persons, such as murder, assault, robbery; civil cases are for the most part concerned with property. If, let us say, a man refused to carry out a business arrangement he had made with you, or interfered with a stream you used for irrigating your land and so caused you to lose your crops, that man would be guilty of an offence against you individually, and you could sue him for damages. The Crown would not step in at all, but you would conduct your own case, probably with the help of a lawyer, while if you were successful the judges would order the man who had wronged you to make reparation, either by the payment

of a sum of money as damages, or in some other way.

What has to be remembered then is that in criminal cases the object of the trial of an offender is to secure the punishment of an "accused;" while in civil cases the reason for going to law is to obtain damages from a "defendant."

Since this chapter deals only with the law itself and not with the manner in which it is enforced by the courts and their officers, it might appear that we have said almost enough on the subject. This would be the case if the law were the same for all classes of the inhabitants; but it is not, and hence before leaving the subject it may be better to make some reference to the law applying to the coloured races living amongst us.

There are certain special laws which apply only to Natives and Indians, and because of these differences in the law strangers coming from countries where the law is the same for all men find the subject hard to understand. But if we look at the question from the point of view of the Natives alone, it is easy to see that it is to their advantage that they should be subject to special laws.

The organisation of life among the Natives is quite different from ours. They have not the same system of buying and selling land as we have, for all their land is held by the chiefs in trust for the tribe generally. They are a pastoral people; that is, their property for the most part consists of cattle. They are divided into separate tribes, each with its own chief. A man may marry more than one wife. All these reasons and many others make it necessary for us to pass special laws for the Natives

such as they can understand, and such as will be appropriate to their manners and customs and feelings.

More especially is this so in the case of civil offences. The Natives do not require and, if they had it, would not understand, our system of civil law with its numerous appeals and complications. But some law of course they must have ; and if it is to be understood by them, it must bear some resemblance to the law which was administered by their own chiefs before the white man came into the country. That the Natives require special laws was admitted in the earliest days of the Colony, and led to special provision being made. At the present time there is a court styled the Native High Court, which has been specially constituted to try some of the more serious civil and criminal native cases.

Most of the native law of the Colony has been gathered together into a law passed in the year 1891, known as the *Native Code*, but this law does not contain everything on the subject.

Since the Natives are subject to these special regulations, it would be a hardship if those who had progressed faster in civilisation than their comrades could not come under the same law as the white population if they so desired. Provision has been made for these cases, and accordingly any Native who can satisfy the Governor that he is fit for the privilege may receive a certificate to free him from coming under native law.

Turning now to the Indian population, the question one naturally asks is why it should be necessary for them also to have special laws. The answer is this. If all the Indians who came to Natal came on their own account

entirely, and were free to come and go as they pleased, it might be unnecessary to pass special legislation; but this is not the case. A great number of the Indians who enter Natal come as "indentured immigrants," that is to say, they come under a contract to work for an employer for a fixed number of years. This term of service may be extended for a further period, but when once the term of indenture has fully run out, the Indian is supposed to be sent back to India unless he obtains a license permitting him to remain in the Colony.

Now these indentured Indian immigrants come to Natal in large bodies and are very ignorant of our customs and usages, so special laws have been passed to ensure that they are not unfairly treated by the employers under whom they have to serve. Furthermore, seeing that they may return to India eventually, it is advisable that while here they should live as far as possible under the law to which they have always been accustomed; consequently this also has not been overlooked.

There is a special officer known as the Protector of Immigrants whose duty it is to safeguard these Indians and to see that the laws relating to them are properly carried out.

## CHAPTER XIII

### THE JUDGES AND THE COURTS OF JUSTICE

The Minister who is responsible to Parliament for the proper administration of justice throughout the length and breadth of the land is the Minister of Justice. His

office is, however, quite a newly created one, for when Responsible Government was first conferred upon us, the duties which he now performs were carried out by another Minister, called the Attorney General. There is still an Attorney General as well as a Minister of Justice, but the former is now a civil servant subordinate to the Ministerial Head of his department.

It is the Minister of Justice who sees that all the necessary steps are being continually taken to provide that the law courts are working smoothly and regularly, and who also keeps the police force in a fit condition for preventing crime, and assuring law-abiding folk that things are going on peaceably. It is this Minister who takes charge in Parliament of all Bills dealing with legal questions, as for instance a Bill proposing to alter the punishment for certain crimes or for making any change in the constitution of the law courts. It is he also who controls all the *executive* officers occupied in the various departments engaged in the administration of justice. Of course this Minister has the responsibility of advising his fellow Ministers on all legal questions coming before the Cabinet.

Next to the Minister comes the Attorney General. He is by law the officer responsible for the prosecution of crimes and offences, and since he has to act in virtue of the law, he does so to a very large extent without any previous instructions from the Executive Government. This duty of prosecuting criminals is of chief importance, and the older one grows the more one feels how wise it is to entrust it to an independent and impartial official.

The Secretary to the Law Department is another very

important Government official. It may well be said that he is the right hand man of the Attorney General, since he takes a great deal of law work which otherwise would have to be done by the Attorney General himself.

Then scattered throughout the Colony come officials known as Clerks of the Peace, who are, as it were, the eyes and ears of the Attorney General, because they keep him informed about the state of their respective districts.

Last, but by no means least, comes the police force. It is the duty of the police to keep down crime by continual watching, and to arrest offenders when crimes have been committed and bring them to justice. The Colony has to pay a very large sum of money every year to maintain its police, but so long as the force does its duty efficiently, the money is well spent, and may be compared to the sum which a careful houseowner pays every year to insure his dwelling in case of fire.

Persons who are accused of offences that are not serious, are brought before the Magistrate by the police and dealt with upon the spot; but when the crime is serious, the matter is reported to the district Clerk of the Peace. That officer conducts a "preliminary examination" before the magistrate, who usually determines whether the accused shall be liberated or sent to a higher court for trial. If the magistrate "commits" the accused for trial, the papers containing the "depositions" or evidence of the witnesses are sent to the Attorney General. With this officer rests the decision what further action shall be taken. He can order the accused to be released on the ground that the evidence is not sufficient to secure a conviction, or he can "remit" the case, that is, send it



back to the magistrate for trial in his court; or he can "indict" the accused for trial before a superior court.

This is perhaps the proper place for calling attention to the well-known principle in English law that every accused person is presumed to be innocent until he has been actually pronounced to be guilty after his trial. So strongly is this felt to be right, that it has been said that it is better for ten guilty persons to get off than for one innocent person to be convicted. There are some countries in which this position is exactly reversed, where the accused is presumed to be guilty until he has succeeded in establishing his innocence; but this is entirely opposed to the humane spirit of English justice.

While it is the duty of the executive officers to apprehend criminals, it is the duty of the judicial officers presiding over the various courts to try offenders according to law, and with the utmost fairness. No obstacle whatever is placed in the way. The Executive Government leaves judges and magistrates entirely free to deal with every case coming before them as they may think fit. It would be a monstrous thing for the Government to attempt to influence the decision of a judge or magistrate, and even if the Government is itself concerned in a case, it has no more weight with the Court than the opposite party, even though he be the humblest colonist.

In order that the judges may keep their independence, they hold office "during good behaviour." This simply means that so long as a judge administers the law without fear or favour, he cannot be dismissed by the Government, even though the Government should disapprove of his sentences or decisions. And though magistrates do not

hold their appointments on the same terms, it is important that they should be left unfettered by the Government as to how they shall perform their duties as judges.

There are three courts in this Colony for the trial of criminal and civil cases; these are the courts of magistrates, the Native High Court, and the Supreme Court. It is interesting to note that Native Chiefs can try certain smaller cases arising in their tribes, but their decisions are subject to appeal to the higher courts.

Magistrates' Courts deal with the smaller classes of crime and the less important civil cases which arise daily in every community, while the other two courts deal with cases of a graver character. The Native High Court, as its name suggests, is purely a tribunal for the convenience of the Natives, and has existed in its present form only since the year 1899.

The usual procedure in Magistrates' Courts is to bring all prisoners before the Magistrate as soon as possible after their arrest. The prisoner is asked whether he is guilty or not, and is straightway sentenced if he pleads guilty. If he pleads not guilty, an officer of police, or, if the case is more serious than usual, the Clerk of the Peace, brings forward the witnesses for the prosecution, and after they are heard, the prisoner brings forward his own witnesses. In Natal prisoners can give evidence on their own behalf, if they so desire, but they are not compelled to do so. The evidence being complete, the Magistrate delivers his verdict, and if he finds the accused guilty, passes sentence.

The proceedings in all the courts are in English, and interpreters are provided where necessary.

In "civil" matters magistrates can only try cases where the sum in dispute is not more than £100.

Sometimes it happens in both civil and criminal cases that one of the parties to a case considers the decision of the Magistrate to be contrary to the evidence. Provision therefore is made for an appeal to the higher courts; it being only a very minor case indeed that cannot be the subject of an appeal. In civil cases the person who loses has generally to pay the costs, including those of the lawyers on both sides, and when a case is "appealed," the person who loses in the higher court has to pay the costs in both courts.

Two reasons principally led to the establishment of the Native High Court. It was intended to relieve the Supreme Court of a portion of its work; and it was designed to furnish a simpler and more effective means of settling purely native cases than was provided by the machinery of the Supreme Court.

Last and highest court of all comes the Supreme Court, the bench of which consists of the Chief Justice and two other judges, called "Puisne" judges. Temporary judges, termed Commissioners, may also be appointed from time to time if the work of the Court makes such appointment necessary.

Although the headquarters of the Supreme Court are in Pietermaritzburg, courts presided over by a single judge are held periodically in different towns. The holding of these "circuit" courts removes the need for bringing lawyers and other people concerned to Pietermaritzburg, and permits of offences being tried and offenders punished in the districts in which the offences were committed.

We have already seen how every criminal case heard in the Supreme Court has been first investigated by the magistrate at the "preliminary examination." The results of this examination, the "depositions," are placed in the hands of the person prosecuting in the Supreme or Circuit Court, together with the "indictment" or act of accusation prepared by the Attorney General. With these documents before him the prosecutor knows the supposed history of the case, and they guide him in putting questions to the witnesses. In the same manner as in the lower courts, the accused brings forward his witnesses after those for the prosecution have been heard, and he may also give evidence himself.

The whole of the case is then "summed up" by the judge, after which the question of the prisoner's guilt is decided by the jury of nine men who have been present during the whole of the hearing. Seven out of the nine jurymen must agree upon the same verdict before they can announce their decision to the judge. If the verdict is "guilty," the judge passes sentence; if "not guilty," the accused is at once released.

The first step in a civil case is the issue of a "summons" by the "plaintiff" calling upon the "defendant" to satisfy his claim. Then come the "pleadings," which are in effect a brief history of the case from the point of view of both parties, each giving their own versions; after which the Court hears the case and decides according to the evidence put before it. The pleadings are doubly useful. They give the judges the facts of the case, and they give the persons going to law time to consider whether it would not be better to come to a friendly agreement.

Another important branch of the work of the Supreme Court lies in the distribution of the property of people who are insolvent, that is, cannot pay their debts ; and in the distribution of the property of people who die without making wills. The officer who looks to this business is known as the " Master " of the Supreme Court.

Civil cases in which the cause of action is of the value of at least £500 may be transferred on appeal to the Judicial Committee of the Privy Council sitting in London.

This Appeal Court consists of some of the most eminent British and Colonial judges, and forms a supreme court of appeal for all the colonial possessions. This great institution more perhaps than anything else connected with our constitution serves to remind us of the unity of the Empire.

## CHAPTER XIV

### PUBLIC EDUCATION

There is one branch of the public service of all civilised countries which grows more and more important every day and in which young people are particularly concerned, and that is Education.

To most folk in school Education seems a very dreary and tiresome matter, taking up time that could be more pleasantly spent in games or in reading story-books, or even in doing nothing. But the fact is that school is only a small part of education, though it happens to be that part of it of which we are best aware.

People are being *educated*, though they may not know it, by everything that they meet or feel in life. Anything that gives people experience so that they know what to expect, everything that increases their knowledge and helps them to find a place in the world, is educating them.

Now good parents and wise governments determine that their children shall have knowledge of good things and not bad; and that they shall be taught such things as will place them in the world with health and happiness. They arrange therefore that their children should receive instruction and training, that they should learn good things, and that they should get into good habits. For this purpose schools and teachers are provided either by private persons or by the Government.

Boys and girls, young men and young women, who are left to themselves, without advice and guidance, cannot know what sort of knowledge is most useful in life and what sort of habits are most likely to give health and happiness. The world has learnt a very great deal that boys and girls cannot know, and teachers and schools are needed for the express purpose of saving young people from the misfortunes which would certainly befall them if they got no teaching or training. So the studies that seem to young scholars only dull and tiresome are really of the greatest importance in after life, as grown up people could tell us.

Every year Natal spends more than £200,000 to provide schools and teachers for young Natalians. We may be sure that Natal knows what it is about and would not spend such an immense sum of money unless a good deal was to be gained by it. The gain is this: that

well-educated school children grow up into good and intelligent men and women; and the prosperity and happiness of the country and of every man and woman in it depend on the goodness and intelligence of its inhabitants. A country whose business is not conducted wisely will not maintain its prosperity and the wealth and the happiness of its people; a man or woman lacking knowledge or good habits cannot possibly have success in life.

Well, the country knows this, and so has established its Department of Education. In Natal, this department may, as we have seen, be in the charge of any one of the six Ministers already spoken of, who thus becomes Minister of Education, and is responsible to Parliament for the proceedings of the Education Office and its staff.

The chief business of this office is to watch vigilantly to see whether it is necessary and, if necessary, possible, to establish schools of its own and to assist schools already established by private persons. Schools of its own it gets built by the Public Works Department, and into these it puts teachers and the necessary furniture and supplies to enable the schools to do their work. To schools established by other people it makes grants of money, so that their business may be done properly.

In order to make sure that the work of the schools is going smoothly, and that there are enough schools for all the children of the Colony, the Education Department has a body of Inspectors. It is the duty of these officers to advise and help teachers; to inform their chief, the Superintendent of Education, of what they find; and to make suggestions that may be useful to him.

It is their business also to inspect and report on the libraries to which the Government makes grants, so that the Government may know that their money is properly and profitably spent on these important institutions.

Another important piece of work handed over to the Education Department is the examination of candidates for posts in the Civil Service. These examinations are made to fit as nearly as possible the work done in the schools, so that the most diligent and intelligent scholars may have the best chance of entering the public service.

Every pupil in a Government or Government-Aided School is supplied with a "school-card," which serves as a sort of record of the pupil's school life. On it the Head Teacher notes at the end of every half-year the number of times school has been open, and the number of times the scholar has been present punctually; and states whether or no the scholar's work and conduct have been satisfactory.

This card is seen and signed by the scholar's parent, and when boys or girls leave school their cards will be handed to them as their private property, to be kept as proof that they have been diligent and well-conducted scholars, and that they may be expected to be trustworthy and successful in life outside school.

An exactly similar card for each scholar is kept at the school until the scholar leaves, when the card will go to the Education Office, to be there preserved.

As it is of the greatest importance that no part of the population of the country should be left in ignorance and so become the prey of bad people and subject to bad influences, some sort of provision is made for all grades and kinds of children, white or black. For it has to be



remembered, and by the ruling white people in particular, that if the less civilised folk are not taught to make a decent use of the opportunities and examples which they get by contact with white men, they will make a bad use of them, and become a curse both to themselves and the country.

Perhaps the most serious part of the duty of white people towards the black races is to remember how readily the blacks copy the vices of their white superiors, and to educate them by showing them a constant example of sobriety, honesty, justice, and industry.

Most boys and girls leave school long before even their school education can be said to be completed. Sometimes there are evening schools at which they can continue their studies and receive help when they want it. But even when there are not such means of self-improvement, it is still possible to make up for lack of them by work in private. One thing is perfectly certain and cannot be remembered too well, and that is that the best educated people have the best chance of being prosperous and happy.

Rich people need education in order to know what is the best use to make of their wealth, and how to get most real profit out of it. Poorer people need education in order that they may be able to get their fair share of prosperity, and in order that they may know what are the things really worth having. A rich man who has been badly educated does not get so much real profit out of the world as a poor man who knows that the things best worth having cannot be bought with money, but depend on good training, intelligence, and character.

Good parents are ready to do without many things which they would like to have in order that they may spend money on giving their children a good education. They are right, for by so doing they ensure their children's happiness in life; and children at school should remember this if ever they feel inclined to think school and school duties tiresome and not really worth troubling about.

It is easy for anybody to see how useful are the subjects which the school does for us.

We learn first of all to obey instructions and to work together. Where these things are not possible, there can be no good order. They are the foundations of good conduct and good government. We should be as careful about the good order and good name of our school as we are about our own reputations; and one or two bad boys or girls can spoil the good name of a whole school. It is the duty of the rest of the school, the other boys and girls, to prevent this; and they can do more to keep the name of the school respected, if they make up their minds, than all the teachers.

Of the actual subjects taught in the school the most important is the reading of good books. Good books are the best things which have been made by men, and if we can get to like great books when we are young, we are laying up a store of pleasure and profit for our whole life.

We learn History and Geography in order that we may know how and why great events have affected the fate of the nations, and how the lives and habits of men are influenced by the world in which they live.

We learn Mathematics not only because a great deal of our practical life consists in making calculations, but also

because the results of knowledge are made certain only when they can be expressed in figures.

We ought to learn the nature and habits of the things that grow about us, trees and plants, birds and beasts ; we ought to learn to use our fingers and hands in simple arts and crafts ; and by such things as class-singing and drill, to take pleasure in the useful and graceful things of life that can be done in large companies.

If we do these things we are learning not only for our own benefit but for the pleasure and profit of other people. We are in short fitting ourselves to be good citizens and contented men and women.

Few boys' schools in Natal are without a cadet corps, which is organised in close connexion with the military force of the country and is recognised by Parliament. We cannot learn too soon that a man must be prepared, if need be, to fight and lay down his life in his country's service. We become soldiers not in order to brag and bully other people, but to preserve the rights and to perform the duties which our fathers have handed down to us. The symbol of these rights and duties is the flag of the Empire which flies before every Government school.

Of all the many things which we might learn in school, it is the business of teachers to find out those which will prove of most lasting benefit to us ; and it is the business of boys and girls, in their turn, to make the hard work of teachers as easy as possible by obedience, cheerfulness, and industry.

## CHAPTER XV

## SELF-GOVERNMENT IN THE TOWNS

We have now come to the end of our brief description of the Constitution of the Colony and of the working of our Government. But no account of the public life of the citizens of Natal would be complete without a short account of the way in which towns conduct their business as towns.

All of us either live in the towns or come into them occasionally on business or pleasure ; and if we take any interest in town life at all, we cannot fail to ask how it comes about that they are so well managed. We wonder who pays for the town buildings, the paved roads, the lighted streets, the markets, the borough policemen, and the other many signs of busy municipal life. The root of the explanation will be found in our English History, for there one reads that from quite early days the English people have had a peculiar gift or faculty for self-government.

One often reads that this or that king “ confirmed the charters ” of certain towns. This simply means that he gave these towns his royal assurance that they would be left free to manage themselves within certain limits, and those limits the townsmen lost no opportunity of extending whenever the occasion arose.

An Englishman usually prefers to do things for himself, or at all events to have a voice in what concerns him. He therefore prefers to do many things as an active

member of a town rather than have them done by Government. Independence such as this has always been a striking feature of most Englishmen and the colonists brought it with them when they came to Natal.

Whenever, then, a settlement in Natal becomes large enough to call itself a town, the inhabitants follow the instincts of their race and lose no time in asking the Government to constitute them first of all into a "township." When they become still more populous, these townships again come to the Government and ask to be formed into "boroughs." In many respects the townships are merely small boroughs, and a description of the "corporate" life of the one will apply to the other.

Power is given by law to the Government to establish boroughs as soon as a township possesses a population of one thousand persons. Each borough is divided into "wards," of which there must be at least four, or as many more as are convenient. The Government when establishing the borough hands over to it certain lands in the neighbourhood as well as in the town, to be used for the purposes of the borough; though as a rule all the necessary lands have already been handed over by the Government when it established the township. With these lands and with any money or other property transferred from the township, the borough is ready for its municipal life.

The central principle of town government is that the management of the town shall be in the hands of a body of men elected by their fellow townsmen. This body is called the "town council," and the townsmen entitled to vote for the election of town councillors are styled

“burgesses.” Every burgess must either own or rent a certain amount of immovable property in the borough. The Councillors are elected for two years, but may be re-elected as often as the burgesses think fit.

The leading citizen in every town is the Mayor. This official is a town councillor elected annually to the position of Mayor by the votes of his fellow councillors. He represents the town on all public occasions, is its spokesman, and entertains all those whom the town wishes to honour with its hospitality. Naturally the Mayor has to spend a good deal of money in entertaining and for other purposes, and to help him to do this he usually receives an annual allowance known as his “table money.”

Since the town council is an elected body and with its members constantly changing, there must be a number of permanent officials to advise the council and carry on the daily work. The chief of these officials is the Town Clerk, and upon him rests much of the responsibility for the good government of the borough.

Although the Government gives the towns their borough lands, its generosity does not as a rule go much further; and accordingly every year the burgesses have to raise sufficient money to provide for the numerous wants of the town. This brings us to the subject of *rates*. The Government gets in money mostly in the form of “taxes,” the boroughs in the form of “rates.”

Although, as we shall see, there are other sources of corporation revenue, the principal part of the income of a borough is got by levying a fixed rate on the immovable property situated within the borough. It is the aim of a corporation to raise only so much money in this way every

year as is required for the year. To have a surplus of money raised by taxes or by rates would show bad management, unless there were some special reason to cause it.

The rate is fixed every year according to the value of the immovable property, and this value is settled each year by qualified persons called "valuators," who have solemnly undertaken to act justly. Any person who thinks that his property has been valued too highly, thus causing him to pay more than his fair share of the town's taxation, may appeal against the valuation. The rate is finally assessed at so many pence in the pound; that is, for every pound's worth of immovable property which a man holds he is required to pay so many pence or shillings as rates. Every owner of property is then served with a notice of the amount of his rates, and these he has to pay before a certain date. Sometimes the occupiers of houses agree with their landlords that they shall pay the rates for him.

It hardly seems necessary to give a list of the needs for which the Corporation has to find money. Corporation buildings are wanted; there must be light and water for the houses; roads want hardening and paving as well as lighting; the town officials and police and labourers have all to be paid. However flourishing its revenue, the Corporation will find that it is all required.

In every borough the right of holding markets is confined to the Corporation. Thus no private person can establish a market, and so the Corporation erects a market building and engages a market-master. People who bring their produce to the market pay the Corporation a fee or

commission upon everything sold, and these market dues form a considerable addition to the town income.

In most boroughs it is recognised that the task of supplying the town with water and with light should be the duty of the townspeople themselves, and should not be left in the hands of private persons lest they attempt to make an undue profit. Accordingly the waterworks and the general lighting systems are managed by the corporations, and the profits made go into the town purse.

Since the town roads are a good deal cut up by the passage of vehicles, the corporations have to spend more money than they otherwise would in keeping them in repair ; to balance this the owners of vehicles have to pay special licenses to the corporations.

One of the most difficult tasks in every town is that of giving it a good drainage system and sanitary service. There is nothing more essential to the health and good repute of a town than these two things.

Other duties too have to be performed by every Corporation. When one thinks of them one sees that the governing of a town is in its smaller way almost as difficult as the government of the Colony. Any citizen, then, public spirited enough to give his time and his energies to the work of a town councillor deserves the thanks and the sympathy of his fellow townsmen. And it is our duty to send to the town council the best men in the community.



## CONCLUSION

President Roosevelt once said "good laws and good administration alike must rest on the broad basis of sound public opinion." Again and again must we remind ourselves of this great truth. Laws however excellent, and a civil service however skilful, are useless unless the men and women of the land desire honestly to use them ; they are like finely tempered tools in the hands of workmen too dull or lazy to ply them. It is not enough therefore for us to take trouble to send good and intelligent men to Parliament to make laws for us ; we must also cheerfully obey the laws made, and we must let our law-makers feel that we shall stand by them and support them bravely in their work. Our actions and our words must show that we are in earnest in desiring to have honest public officials and a careful public administration. Public officials must know that they will be supported by "public opinion" so long as they are true and faithful servants of the country.

We have surveyed in the previous chapters of this book most of the *machinery* of government. We have seen how complicated it is, and we have seen also that the complications are almost always due to the fact that the country and its institutions have *grown*, and have not been *manufactured*. In fact, a State has been well compared to a living body, which grows from within, increasing in width and stature as an animal or plant increases.

When, then, we speak of "machinery" in this connexion, we must not be misled. When business has to be done, new means may have to be invented for the purpose of doing it; but the great institutions on which we depend for government and administration are like living limbs, and the exact forms of business used are like tools. Our institutions are generally very real parts of our national *life*, just as our limbs are living parts of our bodies; but their work is carried on by officers and persons that are like the instruments guided by the inspired hand.

Thus our Parliament is a living limb, part of the public *life* of the State, whereas the particular forms which it uses in making laws might be altered ever so much and yet the State might suffer little or no harm. Thus, too, the *monarchy* could hardly come to an end without shaking the whole of the British system to its foundations; but when one monarch dies, another takes his place without catastrophe. Thus, again, to every British state arrived at a certain stage of development responsible government comes just as the necessity of walking comes to a little child; responsible government is not merely a gracious gift from the people of England, but a form of intelligent life which could be suppressed only to the danger of the whole State, just as it would be dangerous to the life of a little child to prevent it from walking.

"Public opinion," indeed, is more powerful than the laws themselves, and may often influence things which the laws cannot touch. No body of laws provides for all possible cases. Many things that are exceedingly wrong

can be cured by nothing but our own consciences or the opinion of other people. We may be so grossly ill-tempered as to make the people about us constantly unhappy, but the law does not interfere with us. If, however, we steal a pair of boots, the law has no hesitation in sending us to prison. Why is this? It is worse to be persistently unkind than to steal boots; yet the law can prevent, and does prevent, the less serious offence, while taking no notice of the other.

The explanation is this: however skilfully laws are made, they can only, after all, deal with very simple things, things that can be proved or disproved and, so to speak, measured up. Now the little acts that make habitual unkindness cannot be measured up and punished precisely as they deserve, whereas it is comparatively easy to say that if a man steals a pair of boots he shall be imprisoned for three months.

The law, then, is too weak to deal with unkindness which does not show itself in open violence, though it may be worse than open violence; the judges must leave such things to be condemned and punished by the opinion of all good people who see them.

So in business affairs things are often done which public opinion condemns and could prevent if people were as honest and bold as they should be, but which the law cannot bring home to the offenders. The best way to mend this and the like is to determine never to do anything ourselves which our consciences cannot entirely justify and which we should not like other people to do.

---

The British empire is great and strong because on the whole it stands for justice and good government. To its greatness and strength we can contribute by doing our duty. When our time comes to take part in public affairs, we should not stand aloof. We should rather try to satisfy ourselves in what direction justice and wisdom lie, and strenuously combine with others of our way of thinking to get our wishes carried into effect.

*Righteousness exalteth a nation.*

GOD SAVE THE KING!

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